



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXVIII
September 28, 2005

NUMBER 7
Pages 493 to 548

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PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

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CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

- | | |
|-----------------------|----------------|
| 441 IAC 79 | (Chapter) |
| 441 IAC 79.1(249A) | (Rule) |
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The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

Schedule for Rule Making 2005

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 31 '04	Jan. 19 '05	Feb. 8 '05	Feb. 23 '05	Feb. 25 '05	Mar. 16 '05	Apr. 20 '05	July 18 '05
Jan. 14 '05	Feb. 2	Feb. 22	Mar. 9	Mar. 11	Mar. 30	May 4	Aug. 1
Jan. 28	Feb. 16	Mar. 8	Mar. 23	Mar. 25	Apr. 13	May 18	Aug. 15
Feb. 11	Mar. 2	Mar. 22	Apr. 6	Apr. 8	Apr. 27	June 1	Aug. 29
Feb. 25	Mar. 16	Apr. 5	Apr. 20	Apr. 22	May 11	June 15	Sept. 12
Mar. 11	Mar. 30	Apr. 19	May 4	May 6	May 25	June 29	Sept. 26
Mar. 25	Apr. 13	May 3	May 18	***May 18***	June 8	July 13	Oct. 10
Apr. 8	Apr. 27	May 17	June 1	June 3	June 22	July 27	Oct. 24
Apr. 22	May 11	May 31	June 15	June 17	July 6	Aug. 10	Nov. 7
May 6	May 25	June 14	June 29	***June 29***	July 20	Aug. 24	Nov. 21
May 18	June 8	June 28	July 13	July 15	Aug. 3	Sept. 7	Dec. 5
June 3	June 22	July 12	July 27	July 29	Aug. 17	Sept. 21	Dec. 19
June 17	July 6	July 26	Aug. 10	Aug. 12	Aug. 31	Oct. 5	Jan. 2 '06
June 29	July 20	Aug. 9	Aug. 24	***Aug. 24***	Sept. 14	Oct. 19	Jan. 16 '06
July 15	Aug. 3	Aug. 23	Sept. 7	Sept. 9	Sept. 28	Nov. 2	Jan. 30 '06
July 29	Aug. 17	Sept. 6	Sept. 21	Sept. 23	Oct. 12	Nov. 16	Feb. 13 '06
Aug. 12	Aug. 31	Sept. 20	Oct. 5	Oct. 7	Oct. 26	Nov. 30	Feb. 27 '06
Aug. 24	Sept. 14	Oct. 4	Oct. 19	Oct. 21	Nov. 9	Dec. 14	Mar. 13 '06
Sept. 9	Sept. 28	Oct. 18	Nov. 2	Nov. 4	Nov. 23	Dec. 28	Mar. 27 '06
Sept. 23	Oct. 12	Nov. 1	Nov. 16	***Nov. 16***	Dec. 7	Jan. 11 '06	Apr. 10 '06
Oct. 7	Oct. 26	Nov. 15	Nov. 30	Dec. 2	Dec. 21	Jan. 25 '06	Apr. 24 '06
Oct. 21	Nov. 9	Nov. 29	Dec. 14	***Dec. 14***	Jan. 4 '06	Feb. 8 '06	May 8 '06
Nov. 4	Nov. 23	Dec. 13	Dec. 28	Dec. 30	Jan. 18 '06	Feb. 22 '06	May 22 '06
Nov. 16	Dec. 7	Dec. 27	Jan. 11 '06	Jan. 13 '06	Feb. 1 '06	Mar. 8 '06	June 5 '06
Dec. 2	Dec. 21	Jan. 10 '06	Jan. 25 '06	Jan. 27 '06	Feb. 15 '06	Mar. 22 '06	June 19 '06
Dec. 14	Jan. 4 '06	Jan. 24 '06	Feb. 8 '06	Feb. 10 '06	Mar. 1 '06	Apr. 5 '06	July 3 '06
Dec. 30	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06

PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
9	Friday, October 7, 2005	October 26, 2005
10	Friday, October 21, 2005	November 9, 2005
11	Friday, November 4, 2005	November 23, 2005

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

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FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

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The Administrative Rules Review Committee will hold its regular, statutory meeting on Tuesday, October 11, 2005, at 9 a.m. in Room 116, State Capitol, Des Moines, Iowa. The following rules will be reviewed:

ADMINISTRATIVE SERVICES DEPARTMENT[11]

Parking on capitol complex, 101.2, 101.3(2), 101.3(3), 101.5 to 101.7, 101.9(4), Notice **ARC 4528B** 9/28/05
 Requests for proposals—general notification, 105.7(1), Filed **ARC 4510B** 9/14/05

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 Grain dealers and warehouse operators; grain indemnity fund, chs 90 to 94, Notice **ARC 4408B** 9/14/05

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Sex offender risk assessment, 38.2, 38.3, Filed **ARC 4531B** 9/28/05
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IOWA FINANCE AUTHORITY[265]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]“umbrella”

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Home and community-based services rent subsidy program, adopt ch 24, <u>Filed</u> ARC 4548B	9/28/05
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PUBLIC HEALTH DEPARTMENT[641]“umbrella”

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Respiratory care examiners, 261.5, <u>Notice ARC 4499B</u>	9/14/05
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Speech pathology and audiology examiners, 300.1, 300.11(1), 300.11(3), 300.11(5), 300.11(7), 300.11(8), 300.12, 300.13, 300.16 to 300.18, 303.1, 303.2(3), 303.2(4), 303.3, 303.3(1), 303.3(1)“c,” 303.3(1)“e”(2) and (3), 303.4 to 303.11, 305.1(4) to 305.1(6), <u>Filed ARC 4492B</u>	9/14/05
Speech pathology and audiology examiners, 300.3(3), 300.3(4)“b,” 300.3(6), 300.4(1)“b,” 300.6(2), 300.9, 303.1, 303.2(1), 303.3(2)“b” to “g,” 304.2(32), <u>Filed ARC 4493B</u>	9/14/05
Speech pathology and audiology examiners—fees, 305.1, <u>Notice ARC 4497B</u>	9/14/05
Interpreters for the hearing impaired examiners—fees, 364.1, <u>Notice ARC 4494B</u>	9/14/05

PUBLIC SAFETY DEPARTMENT[661]

State building code, amend ch 16 title; rescind 16.1 to 16.500, 16.700 to 16.802; adopt chs 300 to 303, <u>Notice ARC 4514B</u>	9/14/05
State historic building code, adopt ch 350, <u>Notice ARC 4515B</u>	9/14/05

RAILWAY FINANCE AUTHORITY[765]

TRANSPORTATION DEPARTMENT[761]“umbrella”

Railroad revolving loan and grant fund program, adopt ch 5, <u>Notice ARC 4523B</u>	9/28/05
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RECORDS COMMISSION[671]

E-mail retention, ch 15, <u>Filed ARC 4537B</u>	9/28/05
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REVENUE DEPARTMENT[701]

Tax credits—historic preservation and cultural and entertainment business, eligible housing business, endow Iowa, 39.1(7), 42.13(1), 42.13(2), 42.15, 42.20, 42.23“12,” 52.12“8,” 52.15(1), 52.15(2), 52.18, 52.23, 58.8, 58.8(1), 58.8(2), 58.10, 58.13, <u>Notice ARC 4518B</u>	9/14/05
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SECRETARY OF STATE[721]

Voting systems—security, HAVA requirements, electronic voting machine equipment, ch 22 title, 22.31, 22.39, 22.42, 22.50, 22.101, 22.102(3), 22.102(8), 22.102(9), 22.200, 22.201, 22.231, 22.232, 22.240, 22.240(3), 22.240(4), 22.241, 22.250, 22.251, 22.260, 22.261, 22.340, 22.341, 22.350, 22.431, 22.431(1), 22.431(4), 22.432, 22.433, 22.463, 22.500, <u>Notice ARC 4546B</u>	9/28/05
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SOIL CONSERVATION DIVISION[27]

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]“umbrella”

Watershed improvement review board, adopt chs 101 to 107, <u>Notice ARC 4521B</u> , also <u>Filed Emergency ARC 4520B</u>	9/14/05
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STATE PUBLIC DEFENDER[493]

INSPECTIONS AND APPEALS DEPARTMENT[481]“umbrella”

Increase in reimbursement rate of automobile mileage for court-appointed attorneys, 12.8(1)“a,” <u>Notice ARC 4540B</u> , also <u>Filed Emergency ARC 4539B</u>	9/28/05
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TRANSPORTATION DEPARTMENT[761]

Registration and title—general, 400.1, 400.2(8), 400.3, 400.4(1)“c,” 400.4(6), 400.5(2), 400.6 to 400.9, 400.11, 400.12(2), 400.13, 400.14(5), 400.16, 400.17, 400.20, 400.21(3), 400.25, 400.27(4)“c,” 400.29, 400.33, 400.35, 400.43, 400.44, 400.45(1), 400.50 to 400.52, 400.53(2), 400.55, 400.58, 400.60, 400.61, 400.64, 401.1, 401.2, 401.4 to 401.7, 401.11 to 401.13, 401.15(1), 401.16, 401.17(4) to 410.17(6), 401.20, 401.27 to 401.30, 401.32 to 401.36, 411.1, 411.2, 411.3(1)“b,” 411.6, 425.1(2), 425.3, 425.10(1), 425.10(8), 425.17, 425.26(2)“b,” 425.26(5), 425.29(2), 425.30, 425.31(1), 425.50(1), 425.50(2)“b,” 425.52(1)“a,” 425.72, 451.1, 451.2, 750.2, 750.3, 750.10(2), 750.15, 750.20, <u>Notice ARC 4482B</u>	9/14/05
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WORKERS' COMPENSATION DIVISION[876]

WORKFORCE DEVELOPMENT DEPARTMENT[871]“umbrella”

Forms, compliance proceedings, contested cases, settlements and commutations, mileage reimbursement rate, 3.1(1), 4.3, 4.9(1), 4.9(3), 4.19(3)“a,” 4.25, 4.28(7), 6.3(1) table, 6.3(3), 6.3(3) table, 8.1“2,” 11.2, <u>Notice ARC 4522B</u>	9/14/05
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ADMINISTRATIVE RULES REVIEW COMMITTEE MEMBERS

Regular statutory meetings are held the second Tuesday of each month at the seat of government as provided in Iowa Code section 17A.8. A special meeting may be called by the Chair at any place in the state and at any time.

EDITOR'S NOTE: Terms ending April 30, 2007.

Senator Jeff Angelo
808 West Jefferson
Creston, Iowa 50801

Senator Michael Connolly
3458 Daniels Street
Dubuque, Iowa 52002

Senator John P. Kibbie
P.O. Box 190
Emmetsburg, Iowa 50536

Senator Mary Lundby
P.O. Box 648
Marion, Iowa 52302-0648

Senator Paul McKinley
21884 483rd Lane
Chariton, Iowa 50049

Joseph A. Royce
Legal Counsel
Capitol, Room 116A
Des Moines, Iowa 50319
Telephone (515)281-3084
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Representative Danny Carroll
244 400th Avenue
Grinnell, Iowa 50112

Representative George Eichhorn
P.O. Box 140
Stratford, Iowa 50249

Representative Marcella R. Frevert
P.O. Box 324
Emmetsburg, Iowa 50536

Representative David Heaton
510 East Washington
Mt. Pleasant, Iowa 52641

Representative Geri Huser
213 Seventh Street NW
Altoona, Iowa 50009

Gary Dickey Jr.
Administrative Rules Coordinator
Governor's Ex Officio Representative
Capitol, Room 11
Des Moines, Iowa 50319

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
ADMINISTRATIVE SERVICES DEPARTMENT[11]		
Parking, 101.2, 101.3, 101.5 to 101.7, 101.9(4) IAB 9/28/05 ARC 4528B	Conference Room 04, Level A–South Hoover State Office Bldg. Des Moines, Iowa	October 18, 2005 10 a.m.
CORRECTIONS DEPARTMENT[201]		
Jail facilities, amendments to ch 50 IAB 9/14/05 ARC 4516B	Second Floor Conference Room 420 Watson Powell Jr. Way Des Moines, Iowa	October 4, 2005 11 a.m. to 1 p.m.
Temporary holding facilities, amendments to ch 51 IAB 9/14/05 ARC 4517B	Second Floor Conference Room 420 Watson Powell Jr. Way Des Moines, Iowa	October 4, 2005 11 a.m. to 1 p.m.
CREDIT UNION DIVISION[189]		
Real estate lending—evidence of title, 9.2 IAB 9/28/05 ARC 4541B	Division Conference Room Suite 370, 200 E. Grand Des Moines, Iowa	October 18, 2005 10 a.m.
DENTAL EXAMINERS BOARD[650]		
Services provided to new patients, 10.3(2) to 10.3(6) IAB 9/28/05 ARC 4535B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	October 18, 2005 2 p.m.
Deep sedation/general anesthesia and conscious sedation permits, 29.11 IAB 9/28/05 ARC 4536B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	October 18, 2005 2 p.m.
EDUCATION DEPARTMENT[281]		
General accreditation standards, 12.3(4), 12.4, 12.5(5) IAB 9/28/05 ARC 4529B	State Board Room, Second Floor Grimes State Office Bldg. Des Moines, Iowa	October 18, 2005 1 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Water quality standards, 61.2(5), 61.3 IAB 9/14/05 ARC 4504B	Municipal Utilities Conference Room 15 W. Third St. Atlantic, Iowa	October 4, 2005 11 a.m.
	Community Center 530 W. Bluff St. Cherokee, Iowa	October 4, 2005 7 p.m.
	Community Meeting Room 15 N. Sixth St. Clear Lake, Iowa	October 10, 2005 7 p.m.
	Farmers and Merchants Savings and Trust 101 E. Main St. Manchester, Iowa	October 12, 2005 11 a.m.

ENVIRONMENTAL PROTECTION COMMISSION[567] (Cont'd)

	Community Y 121 E. Main St. Washington, Iowa	October 12, 2005 7 p.m.
	Fifth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	October 14, 2005 1 p.m.
Water quality standards—warm water designations, 61.3 IAB 9/14/05 ARC 4505B	Municipal Utilities Conference Room 15 W. Third St. Atlantic, Iowa	October 4, 2005 11 a.m.
	Community Center 530 W. Bluff St. Cherokee, Iowa	October 4, 2005 7 p.m.
	Community Meeting Room 15 N. Sixth St. Clear Lake, Iowa	October 10, 2005 7 p.m.
	Farmers and Merchants Savings and Trust 101 E. Main St. Manchester, Iowa	October 12, 2005 11 a.m.
	Community Y 121 E. Main St. Washington, Iowa	October 12, 2005 7 p.m.
	Fifth Floor Conference Rooms Wallace State Office Bldg. Des Moines, Iowa	October 14, 2005 1 p.m.
Animal feeding operations—open feedlot operation requirements, amendments to ch 65 IAB 9/14/05 ARC 4506B (See also ARC 4507B)	Fire Station 1904 N. Broadway St. Red Oak, Iowa	October 4, 2005 10 a.m.
	Rooms 142–146, Main Bldg. DMACC Carroll Campus 906 N. Grant Rd. Carroll, Iowa	October 4, 2005 6:30 p.m.
	Clay County Regional Events Center 800 W. 18th St. Spencer, Iowa	October 5, 2005 10 a.m.
	Lime Creek Nature Center 3501 Lime Creek Rd. Mason City, Iowa	October 5, 2005 6:30 p.m.
	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 6, 2005 9 a.m.
	Room Iowa A/B, 3rd Floor, Iowa Hall Kirkwood Community College 6301 Kirkwood Blvd. SW Cedar Rapids, Iowa	October 7, 2005 3 p.m.

HUMAN SERVICES DEPARTMENT[441]

Child care quality rating system, 7.1, ch 118 IAB 9/14/05 ARC 4511B	Child Care Resource and Referral of Central Iowa Orchard Place Child Guidance Center 808 Fifth Ave. Des Moines, Iowa	October 5, 2005 4:30 to 6 p.m.
	Child Care Resource and Referral of Southeast Iowa Iowa East Central T.R.A.I.N. 500 E. 59th St. Davenport, Iowa	October 5, 2005 5 to 6:30 p.m.
	Child Care Resource and Referral of Northeast Iowa Exceptional Persons, Inc. Board Room, 760 Ansborough Waterloo, Iowa	October 6, 2005 5 to 6:30 p.m.
	Child Care Resource and Referral of Northwest Iowa Mid-Sioux Opportunity, Inc. 418 S. Marion St. Remsen, Iowa	October 6, 2005 5 to 6:30 p.m.
	Child Care Resource and Referral of Southwest and South Central Iowa West Central Development Corp. 701 Tenth St. Harlan, Iowa	October 6, 2005 5 to 6:30 p.m.

IOWA FINANCE AUTHORITY[265]

Water pollution control works and drinking water facilities financing, adopt ch 26 IAB 9/28/05 ARC 4551B	Suite 250 100 E. Grand Des Moines, Iowa	October 18, 2005 10 to 11 a.m.
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NATURAL RESOURCE COMMISSION[571]

Turtles, 86.1(1), 86.1(2) IAB 8/31/05 ARC 4465B	Municipal Building 502 S. First Street Guttenberg, Iowa	September 28, 2005 7 p.m.
	Musser Public Library 304 Iowa Avenue Muscatine, Iowa	September 29, 2005 7 p.m.
Commercial harvest of mussels, 87.1(4) IAB 8/31/05 ARC 4466B	Municipal Building 502 S. First Street Guttenberg, Iowa	September 28, 2005 7 p.m.
	Musser Public Library 304 Iowa Avenue Muscatine, Iowa	September 29, 2005 7 p.m.

PROFESSIONAL LICENSURE DIVISION[645]

Cosmetology arts and sciences— intense pulsed light devices; attestation of high school graduation, 60.1, 60.2(1), 60.4 to 60.6 IAB 9/14/05 ARC 4519B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 8:30 to 9 a.m.
Cosmetology arts and sciences— examination for licensure, 60.2(1) IAB 9/14/05 ARC 4509B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 8:30 to 9 a.m.
Cosmetology arts and sciences— temporary permits, 60.9, 60.10 IAB 9/28/05 ARC 4527B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 18, 2005 8:30 to 9 a.m.
Cosmetology arts and sciences, 60.11, 61.3, 61.4, 61.8, 61.9, 64.2 IAB 9/28/05 ARC 4525B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 18, 2005 8:30 to 9 a.m.
Mortuary science, 100.1, 100.6, 101.6, 101.10, 101.14 IAB 9/28/05 ARC 4543B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 18, 2005 9:30 to 10 a.m.
Mortuary science—fee increases, 105.1 IAB 9/28/05 ARC 4542B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 18, 2005 9:30 to 10 a.m.
Massage therapists—licensure; fees, 131.2, 131.8, 135.1 IAB 9/28/05 ARC 4524B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 18, 2005 8:30 to 9 a.m.
Physical therapists—fee increases, 204.1 IAB 9/14/05 ARC 4495B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 10:30 to 11 a.m.
Occupational therapists—fee increases, 210.1 IAB 9/14/05 ARC 4489B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 10:30 to 11 a.m.
Respiratory care practitioners, 261.5 IAB 9/14/05 ARC 4499B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 9 to 9:30 a.m.
Respiratory care practitioners— fee increases, 264.1 IAB 9/14/05 ARC 4498B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 9 to 9:30 a.m.
Speech pathologists and audiologists— fee increases, 305.1 IAB 9/14/05 ARC 4497B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 9 to 9:30 a.m.
Interpreters for the hearing impaired— fee increases, 364.1 IAB 9/14/05 ARC 4494B	Fifth Floor Board Conference Rm. Lucas State Office Bldg. Des Moines, Iowa	October 4, 2005 10 to 10:30 a.m.

PUBLIC SAFETY DEPARTMENT[661]

State building code, rescind 16.1 to 16.500, 16.700 to 16.802; adopt chs 300 to 303 IAB 9/14/05 ARC 4514B	Fire Marshal Division Conference Rm. Suite N 401 SW Seventh St. Des Moines, Iowa	October 18, 2005 10 a.m.
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PUBLIC SAFETY DEPARTMENT[661] (Cont'd)

(ICN Network)	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 13, 2005 1 to 3 p.m.
	Room 203B, Linn Hall Kirkwood Community College 6301 Kirkwood Blvd. Cedar Rapids, Iowa	October 13, 2005 1 to 3 p.m.
	Educational Services Center Admin. 12 Scott St. Council Bluffs, Iowa	October 13, 2005 1 to 3 p.m.
	Turner Room Green Valley AEA 1405 N. Lincoln Creston, Iowa	October 13, 2005 1 to 3 p.m.
	Forum Building 2300 Chaney Dubuque, Iowa	October 13, 2005 1 to 3 p.m.
	Room 818, Smith Wellness Center Iowa Lakes Community College 3200 College Dr. Emmetsburg, Iowa	October 13, 2005 1 to 3 p.m.
	Room 128, Careers Bldg. North Iowa Area Community College 500 College Dr. Mason City, Iowa	October 13, 2005 1 to 3 p.m.
	High School 2104 S. Grand Mount Pleasant, Iowa	October 13, 2005 1 to 3 p.m.
	Room 925, Bldg. A Western Iowa Tech Community College 4647 Stone Ave. Sioux City, Iowa	October 13, 2005 1 to 3 p.m.
	Room 8, Bldg. 6, Ankeny Campus Des Moines Area Community College 2006 S. Ankeny Blvd. Ankeny, Iowa	October 13, 2005 6 to 8 p.m.
	Revere Room, Grant Wood AEA 4401 Sixth St. SW Cedar Rapids, Iowa	October 13, 2005 6 to 8 p.m.
	Educational Services Center Admin. 12 Scott St. Council Bluffs, Iowa	October 13, 2005 6 to 8 p.m.
	Turner Room Green Valley AEA 1405 N. Lincoln Creston, Iowa	October 13, 2005 6 to 8 p.m.
	Prairie Lakes AEA Hwy 18 & Second St. Cylinder, Iowa	October 13, 2005 6 to 8 p.m.

PUBLIC SAFETY DEPARTMENT[661] (Cont'd)
(ICN Network)

Forum Building 2300 Chaney Dubuque, Iowa	October 13, 2005 6 to 8 p.m.
CB 118 North Iowa Area Community College 500 College Dr. Mason City, Iowa	October 13, 2005 6 to 8 p.m.
High School 2104 S. Grand Mount Pleasant, Iowa	October 13, 2005 6 to 8 p.m.
Room 925, Bldg. A Western Iowa Tech Community College 4647 Stone Ave. Sioux City, Iowa	October 13, 2005 6 to 8 p.m.

State historic building code,
adopt ch 350
IAB 9/14/05 **ARC 4515B**

For locations, dates and times of ICN hearings, see **ARC 4514B** above.

RAILWAY FINANCE AUTHORITY[765]

Railroad revolving loan and grant fund program, adopt ch 5 IAB 9/28/05 ARC 4523B	South Conference Room, First Floor Administration Bldg. 800 Lincoln Way Ames, Iowa	October 20, 2005 10 a.m. (If requested)
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SOIL CONSERVATION DIVISION[27]

Watershed improvement review board, adopt chs 101 to 107 IAB 9/14/05 ARC 4521B (See also ARC 4520B)	Second Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 4, 2005 1 p.m.
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STATE PUBLIC DEFENDER[493]

Reimbursement rate of automobile mileage for court-appointed attorneys, 12.8(1) IAB 9/28/05 ARC 4540B (See also ARC 4539B herein)	Conference Room 319 Lucas State Office Bldg. Des Moines, Iowa	October 18, 2005 9 a.m.
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TRANSPORTATION DEPARTMENT[761]

Registration and title—general, amendments to chs 400, 401, 411, 425, 451, 750 IAB 9/14/05 ARC 4482B	DOT Conference Room Park Fair Mall 100 Euclid Ave. Des Moines, Iowa	October 6, 2005 10 a.m. (If requested)
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Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
 AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
 ATTORNEY GENERAL[61]
 AUDITOR OF STATE[81]
 BEEF INDUSTRY COUNCIL, IOWA[101]
 BLIND, DEPARTMENT FOR THE[111]
 CAPITAL INVESTMENT BOARD, IOWA[123]
 CITIZENS’ AIDE[141]
 CIVIL RIGHTS COMMISSION[161]
 COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Division[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Savings and Loan Division[197]
 Utilities Division[199]
 CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
 CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
 ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
 EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
 EGG COUNCIL, IOWA[301]
 ELDER AFFAIRS DEPARTMENT[321]
 EMPOWERMENT BOARD, IOWA[349]
 ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
 EXECUTIVE COUNCIL[361]
 FAIR BOARD[371]
 GENERAL SERVICES DEPARTMENT[401]
 HUMAN INVESTMENT COUNCIL[417]
 HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]

HUMAN SERVICES DEPARTMENT[441]
INFORMATION TECHNOLOGY DEPARTMENT[471]
INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NARCOTICS ENFORCEMENT ADVISORY COUNCIL[551]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PERSONNEL DEPARTMENT[581]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Substance Abuse Commission[643]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS COMMISSION[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 4528B

ADMINISTRATIVE SERVICES
DEPARTMENT[11]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 8A.104, the Department of Administrative Services hereby gives Notice of Intended Action to amend Chapter 101, "Parking," Iowa Administrative Code.

The purpose of this proposed rule making is to update rules regulating parking on the capitol complex by revising the definition of "employee" to make it easier to enforce segregation of parking in employee and visitor lots and to provide specifically in the rules for parking for state employees who do not regularly work on the capitol complex and for board and commission members who work on the capitol complex only occasionally.

The waiver process set forth in 11 IAC 9 applies to any request for waiver from these rules.

Public comments concerning the proposed amendments will be accepted until 4:30 p.m. on October 18, 2005. Interested persons may submit written, oral or electronic comments by contacting Carol Stratemeyer, Rules Administrator, Department of Administrative Services, Hoover State Office Building, Level A, Des Moines, Iowa 50319-0104; telephone (515)281-6134; fax (515)281-6140; E-mail Carol.Stratemeyer@iowa.gov.

There will be a public hearing on October 18, 2005, beginning at 10 a.m. in the Administrative Services Conference Room 04, Hoover State Office Building, Level A-South, at which time all interested parties may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Persons with special needs should contact the Department of Administrative Services prior to the hearing if accommodations are needed.

These amendments are intended to implement Iowa Code section 8A.323.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **11—101.2(8A)** as follows:

Add the following **new** definitions in alphabetical order:

"Council member" means a member of a state board, committee, commission, or council who is not a full-time state employee and who is present on the capitol complex only on an occasional basis in the member's official capacity.

"Parking permit" means a device such as but not limited to a decal, placard or tag distributed by the department of administrative services or the legislative branch and used to identify the vehicle of a state employee or council member in capitol complex and legislative parking areas.

Amend the following definitions:

"Access coordinator" means an employee, designated within each agency, with the assigned duties of disseminating information on *capitol complex* parking and building access and requesting and distributing employee parking decals permits and access cards from the department of administrative services, the department of public safety, and the house of representatives or the senate, as appropriate, for employee parking lot assignment and building access.

"Employee" means any person employed *full-time or part-time* by the state of Iowa and regularly assigned to work on the capitol complex, including legislators, judges, and temporary workers, and persons who are service contractors or private contractors with the state. "Employee" includes a contractor and ~~the~~ the contractor's employees who regularly work on the capitol complex. "Employee" shall also mean a full-time appointee of a board, commission, council member who is at the capitol complex in the member's official capacity, or similar group that regularly meets or has offices at the capitol complex.

"Overflow Combined lot" or "overflow lot" means a lot parking area designated by the department of administrative services for both employees and visitors.

Rescind the definition of "parking decal."

ITEM 2. Amend subrule 101.3(2) as follows:

101.3(2) The assignment of parking spaces will be indicated and designated by traffic control devices including but not limited to signs, instructions, lines or symbols painted on curbs or on parking surfaces, or by curbs, barricades, blocks, and lights. ~~A raised or missing parking control gate at the entrance to a parking area otherwise restricted does not indicate open parking.~~

ITEM 3. Adopt **new** subrule 101.3(3) as follows:

101.3(3) A parking permit must be displayed by all vehicles parked by employees on the capitol complex.

ITEM 4. Amend rule 11—101.5(8A) as follows:

11—101.5(8A) Visitor parking. Visitors to the capitol complex shall park in areas designated for visitor parking, in ~~overflow combined~~ lots, or on the street where parking is not prohibited. A visitor shall not park in an ~~employee lot unless the lot is specifically posted for open parking~~ a parking area posted for employee parking except as provided in subrule 101.9(4).

ITEM 5. Amend rule 11—101.6(8A) as follows:

11—101.6(8A) Deliveries. Most buildings on the capitol complex have delivery entrances with limited space for parking while a person loads or unloads a vehicle. ~~Delivery Drivers of delivery~~ vehicles and ~~employees others~~ needing to load or unload their vehicles near the building shall use these entrances. Each of the restrictions and regulations contained in these rules, all traffic control devices, and state laws shall apply to delivery vehicles.

ITEM 6. Amend rule 11—101.7(8A) as follows:

11—101.7(8A) Employee parking. Employees shall park only in assigned capitol complex employee parking areas or ~~overflow combined~~ lots, and not in areas designated solely for visitors or otherwise reserved or restricted except as provided in subrule 101.9(4). An employee who is a council member shall be assigned a parking permit that, when displayed, will allow the council member to park in either an employee or a visitor parking area.

101.7(1) No change.

ADMINISTRATIVE SERVICES DEPARTMENT[11](cont'd)

101.7(2) Decal Parking permit issuance. *All employees who park any vehicle, other than a state vehicle, on the capitol complex shall register the vehicle through their access coordinator and obtain a parking permit and a space or lot assignment. The parking permit will be coded and shall be used only in the assigned space or lot(s).*

a. All employees, *except legislative employees*, who park any vehicle, other than a state vehicle, on the capitol complex shall register the vehicle with the department of administrative services through their access coordinator, ~~and obtain a parking decal(s) and space or lot assignment in a capitol complex parking area within five days after beginning employment on the capitol complex or obtaining license plates for said vehicle, whichever is later. The parking decal will be coded and shall be used only in the assigned space or lot(s).~~

b. Legislative employees must register with the chief clerk of the house of representatives or the secretary of the senate for a ~~placard~~ parking permit and a parking space or lot assignment, unless such registration and assignment are delegated by the legislative branch to another entity.

c. *The department may establish a process for issuing nonadhesive capitol complex parking permits to an access coordinator for temporary use by employees from the coordinator's agency who normally do not work on the capitol complex and to council members associated with the coordinator's agency. Access coordinators shall record the number from the temporary permit and forward this information to the department as requested. The access coordinator shall collect the temporary permit from the driver when the driver no longer needs a parking permit.*

101.7(3) Failure to obtain a parking decal permit. An employee who fails to register a vehicle pursuant to subrule 101.7(2) or fails to obtain a parking decal permit and a space or lot assignment shall not park in capitol complex parking areas.

101.7(4) Display of decals permits.

a. Parking decals with adhesive backing must be permanently affixed to the lower corner of the vehicle's windshield on the driver's side within 48 hours of issuance. The use of tape or adhesive other than that found on the decal to affix the parking decal is prohibited.

b. Dash placards shall be placed on the vehicle's dashboard so they are visible through the windshield on the driver's side.

c. Hangtags shall be hung from the vehicle's rearview mirror.

101.7(5) Replacement of decals parking permits.

a. ~~Lost decals parking permit. A~~ *Lost decals parking permit. An employee or a council member shall replace a lost parking decal permit shall be replaced by the employee's contacting the access coordinator and making application to the department of administrative services or by notifying the chief clerk of the house of representatives or the secretary of the senate, as appropriate.*

b. ~~Damaged decals parking permit. An employee or a council member shall replace a~~ *Damaged decals parking permit that become becomes damaged or unidentifiable or a decal that are is affixed to a vehicle being reassigned to a parking area that requires a different parking decal permit shall be replaced by the employee's contacting the access coordinator and making application to the department, or legislative branch, as appropriate.*

101.7(6) Removal of decals parking permits. A parking decal permit used in or affixed to a vehicle that is no longer being driven to the capitol complex by the employee or coun-

cil member to whom the parking decal permit was issued shall be removed from the vehicle. When the individual to whom the parking decal permit was issued is no longer an employee, the parking decal permit shall be removed from the vehicle and returned to the individual's access coordinator.

101.7(7) No change.

101.7(8) Access coordinator responsibilities. *An agency access coordinator shall:*

a. *Assist employees from the coordinator's agency with completing and filing an application for an access card or parking permit.*

b. *Ensure that employees of the coordinator's agency are familiar with the rules of this chapter and the procedures for obtaining a parking permit and access card.*

c. *Assist with distribution of parking permits to employees of the coordinator's agency.*

ITEM 7. Amend subrule 101.9(4) as follows:

101.9(4) A vehicle shall not be parked in a space or lot unless that space or lot is designated for use by or assigned to the driver. However, *general employee or visitor* spaces or lots that are not otherwise designated (by sign or symbol that indicates a restricted or continuous reserved status, such as legislator, emergency or delivery vehicle, or persons with disabilities) may be used between 6 p.m. and 6 a.m. and during weekends and state government holidays, except as otherwise specified by this rule.

ARC 4541B**CREDIT UNION DIVISION[189]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 533.1, the Credit Union Review Board hereby gives Notice of Intended Action to amend Chapter 9, "Real Estate Lending," Iowa Administrative Code.

Chapter 9 defines real estate lending. The purpose of the amendment is to require evidence of title when lending for the purpose of acquisition or refinance of acquisition when a new mortgage, deed of trust, or similar instrument is filed.

Any interested person may make written or electronic suggestions or comments on this proposed amendment on or before October 18, 2005. Such written material should be directed to James Forney, Credit Union Division, 200 East Grand, Suite 370, Des Moines, Iowa 50309; fax (515)281-7595; E-mail James.Forney@iacudiv.state.ia.us.

There will be a public hearing on the proposed amendment at 10 a.m. on October 18, 2005, in the Credit Union Division Conference Room, 200 East Grand, Suite 370, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Persons with special needs should contact the Credit Union Division prior to the hearing if accommodations need to be made.

CREDIT UNION DIVISION[189](cont'd)

This amendment is intended to implement Iowa Code sections 533.4(21) and 533.16(4)“a.”

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Adopt **new** rule 189—9.2(533) as follows:

189—9.2(533) Evidence of title. When lending for the purpose of acquisition or for the purpose of refinance of acquisition, when a new mortgage, deed of trust, or similar instrument is filed, the credit union shall obtain either:

1. A written legal opinion by an attorney admitted to practice in the state in which the real estate is located showing marketable title in the mortgagor and describing any existing liens and stating that the credit union's mortgage, deed of trust, or similar instrument is a first lien on the real estate; or

2. Title insurance written by an insurance company licensed to do business in the state in which the real estate is located describing any existing liens and insuring the title to the real estate and the validity and enforceability of the mortgage, deed of trust, or similar instrument as a first lien on the real estate.

ARC 4535B

DENTAL EXAMINERS BOARD[650]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 10, “General Requirements,” Iowa Administrative Code.

This amendment clarifies the sequence of services provided to new patients by a dental hygienist. This amendment allows the dental hygienist to provide services prior to the dentist's examining the patient as long as the services provided are rendered under direct or public health supervision. The amendment also requires that the dentist conduct an examination of the new patient during the initial visit.

This amendment is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Any interested person may make written comments or suggestions on the proposed amendment on or before October 18, 2005. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to jhart@bon.state.ia.us.

Also, there will be a public hearing on October 18, 2005, beginning at 2 p.m. in the Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Any person who plans to attend the public hearing and who may have special requirements, such as hearing or mobility

impairments, should contact the Board and advise of specific needs.

This amendment was approved at the August 26, 2005, meeting of the Board of Dental Examiners.

This amendment is intended to implement Iowa Code chapters 17A, 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend subrules 10.3(2) to 10.3(6) as follows:

~~10.3(2) The administration of local anesthesia or nitrous oxide inhalation analgesia shall only be provided under the direct supervision of a dentist. Direct supervision of the dental hygienist requires that the supervising dentist be present in the treatment facility, but it is not required that the dentist be physically present in the treatment room.~~

~~10.3(3) All other authorized services provided by a dental hygienist shall be performed under the general, direct, or public health supervision of a dentist currently licensed in the state of Iowa in accordance with 650—1.1(153) and 650—10.5(153).~~

~~10.3(3) Under the general or public health supervision of a dentist, a dental hygienist may provide educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist. A dentist is not required to examine a patient prior to the provision of these dental hygiene services.~~

~~10.3(4) The administration of local anesthesia or nitrous oxide inhalation analgesia shall only be provided under the direct supervision of a dentist.~~

~~10.3(5) All other authorized services provided by a dental hygienist to a new patient shall be provided under the direct or public health supervision of a dentist. An examination by the dentist must take place during an initial visit by a new patient, except when hygiene services are provided under public health supervision.~~

~~10.3(4-6) Subsequent examination and monitoring of the patient, including definitive diagnosis and treatment planning, is the responsibility of the dentist and shall be carried out in a reasonable period of time in accordance with the professional judgment of the dentist based upon the individual needs of the patient.~~

~~10.3(5) General supervision shall not preclude the use of direct supervision when in the professional judgment of the dentist such supervision is necessary to meet the individual needs of the patient.~~

~~10.3(6) Nothing in these rules shall be interpreted so as to prevent a licensed dental hygienist from providing educational services, assessment, screening, or data collection for the preparation of preliminary written records for evaluation by a licensed dentist.~~

ARC 4536B**DENTAL EXAMINERS BOARD[650]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby gives Notice of Intended Action to amend Chapter 29, “Deep Sedation/General Anesthesia, Conscious Sedation and Nitrous Oxide Inhalation Analgesia,” Iowa Administrative Code.

This amendment clarifies procedures for the renewal and reinstatement of permits to administer deep sedation/general anesthesia and conscious sedation.

This amendment is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7. However, application and renewal fees are not subject to waiver, pursuant to 650—15.9(17A,147,153,272C).

Any interested person may make written comments or suggestions on the proposed amendment on or before October 18, 2005. Such written comments should be directed to Jennifer Hart, Executive Officer, Board of Dental Examiners, 400 SW 8th Street, Suite D, Des Moines, Iowa 50309-4687. E-mail may be sent to Jennifer.Hart@iowa.gov.

Also, there will be a public hearing on October 18, 2005, beginning at 2 p.m. in the Board Conference Room, 400 SW 8th Street, Suite D, Des Moines, Iowa. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment. Any person who plans to attend the public hearing and who may have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

This amendment was approved at the August 26, 2005, regular meeting of the Board of Dental Examiners.

This amendment is intended to implement Iowa Code chapters 147, 153, and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend rule 650—29.11(153) as follows:

650—29.11(153) Renewal. *A permit to administer deep sedation/general anesthesia or conscious sedation shall be renewed biennially at the time of license renewal. Permits expire on June 30 of every even-numbered year.*

29.11(1) *To renew a permit, a licensee must submit the following:*

~~Beginning 12 months from December 10, 1997, and for each renewal thereafter, permit holders are required to maintain evidence a. Evidence of renewal of ACLS certification.~~

~~Beginning 12 months from December 10, 1997, and for each renewal thereafter, permit holders are required to submit a b. A minimum of six hours of continuing education in~~

the area of sedation. These hours may also be submitted as part of license renewal requirements.

c. The appropriate fee for renewal as specified in 650—Chapter 15.

29.11(2) *Failure to renew the permit prior to September 1 following its expiration shall cause the permit to lapse and become invalid for practice.*

29.11(3) *A permit that has been lapsed for more than 60 days may be reinstated upon submission of a new application for a permit in compliance with rule 29.5(153) and payment of the application fee as specified in 650—Chapter 15.*

ARC 4529B**EDUCATION DEPARTMENT[281]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7, the State Board of Education hereby gives Notice of Intended Action to amend Chapter 12, “General Accreditation Standards,” Iowa Administrative Code.

These amendments implement statutory language in Iowa Code section 280.14 [2003 Iowa Acts, chapter 180, section 34]. They also eliminate possible confusion regarding student permanent records and eliminate a violation of the Americans with Disabilities Act.

A public hearing will be held in the State Board Room, Grimes State Office Building, Second Floor, Des Moines, Iowa, on October 18, 2005, at 1 p.m. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any interested person may make written, electronic or oral comments on the proposed amendments on or before October 18, 2005. Written materials may be directed to Del Hoover, Bureau of Administration and School Improvement Services, Grimes State Office Building, Des Moines, Iowa 50319; telephone (515)281-8402; fax (515)281-7700; or E-mail del.hoover@iowa.gov.

These amendments are intended to implement Iowa Code section 280.14.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **12.3(4)**, first unnumbered paragraph, as follows:

The permanent office record shall serve as a historical record of official information concerning the student’s education. *The permanent office record shall be recorded and maintained under the student’s legal name.* At a minimum, the permanent office record should contain evidence of attendance and educational progress, serve as an official transcript, contain other data for use in planning to meet student needs, and provide data for official school and school district

EDUCATION DEPARTMENT[281](cont'd)

reports. This record is to be permanently maintained and stored in a fire-resistant safe or vault or can be maintained and stored electronically with a secure back-up file.

ITEM 2. Amend subrule 12.4(4) as follows:

12.4(4) Required administrative personnel. Each board that operates both an elementary school and a secondary school shall employ as its executive officer and chief administrator a person who holds a license/certificate endorsed for service as a superintendent. The board of a school district may meet this requirement by contracting with its area education agency for “superintendency services” as provided by Iowa Code section 273.7A. The individual employed or contracted for as superintendent may serve as *an* elementary principal ~~in that school or school district provided that the superintendent holds the proper licensure/certification but cannot also serve~~ or as a high school principal in that school or school district *provided that the superintendent holds the proper licensure/certification*. For purposes of this subrule, high school means a school which commences with either grade 9 or grade 10, as determined by the board of directors of the school district, or by the governing authority of the nonpublic school in the case of nonpublic schools. Boards of school districts may jointly employ a superintendent, provided such arrangements comply with the provisions of Iowa Code subsection 279.23(4).

ITEM 3. Amend subrule 12.4(14) as follows:

12.4(14) Physical examination. Except as otherwise provided in 281—43.15(285), the local board shall require each employee to file with ~~it~~ *the local board, after an offer of employment is made and before the beginning of service*, certification of fitness to perform the tasks assigned which shall be in the form of a written report of a physical examination, including a check for tuberculosis, by a licensed physician and surgeon, osteopathic physician and surgeon, osteopath, or qualified doctor of chiropractic, licensed physician assistant, or advanced registered nurse practitioner. ~~A report shall be filed at the beginning of service and at three-year intervals.~~

Each doctor of chiropractic licensed as of July 1, 1974, shall affirm on each certificate of physical examination that the affidavit required by Iowa Code section 151.8 is on file with the board of chiropractic examiners.

ITEM 4. Amend subrule 12.5(5), introductory paragraph, as follows:

12.5(5) High school program, grades 9-12. In grades 9 through 12, a unit is a course or equivalent related components or partial units taught throughout the academic year as defined in subrule ~~12.5(18)~~ *12.5(14)*. The following shall be offered and taught as the minimum program: English-language arts, six units; social studies, five units; mathematics, six units as specified in 12.5(5)“c”; science, five units; health, one unit; physical education, one unit; fine arts, three units; foreign language, four units; and vocational education, 12 units as specified in 12.5(5)“i.”

ARC 4530B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby gives Notice of Intended Action to amend Chapter 96, “Local Option Sales and Services Tax for School Infrastructure,” Iowa Administrative Code.

These amendments are intended to implement 2005 Iowa Acts, House File 882, section 96. The proposed amendments are intended to implement Iowa Code section 423E.4, subsection 6, unnumbered paragraph 1, as amended by 2005 Iowa Acts, House File 882, section 96, and reflect legislative intent regarding the requirement for smaller districts to provide a certificate of need to expend funds received from the supplemental school infrastructure amount.

No public hearing is scheduled. Interested persons may comment on the proposed amendments on or before October 18, 2005. Written, electronic or oral comments may be directed to Su McCurdy, Iowa Department of Education, Grimes State Office Building, Des Moines, Iowa 50319; E-mail su.mccurdy@iowa.gov; telephone (515)281-4738.

These amendments are intended to implement 2005 Iowa Acts, House File 882, section 96.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **281—96.1(423E)**, definition of “certificate of need,” as follows:

“Certificate of need” means written approval that a school district *that has a certified enrollment of fewer than 250 students in the district or that has a certified enrollment of fewer than 100 students in grades 9-12* submits to the department of education on application forms prepared for that purpose to expend the supplemental school infrastructure amount for new construction or for payments for bonds issued for new construction against the supplemental school infrastructure amount.

ITEM 2. Amend subrule **96.4(2)**, paragraph “e,” as follows:

e. If a school district’s enrollment in the current year or any of the five years of projected enrollments is fewer than ~~300~~ 250 students or fewer than ~~30~~ 25 students for any grade, the school district shall attach a copy of a feasibility study pursuant to Iowa Code subsection 256.9(34) or similar study conducted within the past three years with an explanation of how the study supports the project that is the subject of the application.

ITEM 3. Amend subrule **96.5(4)**, paragraphs “a” and “b,” as follows:

a. If either the current or any of the five years of projected enrollments for the school district is fewer than ~~300~~ 250 students.

EDUCATION DEPARTMENT[281](cont'd)

b. If either the current or any of the five years of projected enrollments for the school district for each grade to be served in the building that is the subject of the application is fewer than 30 25 students.

ARC 4545B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to adopt new Chapter 66, “Emergency Food Assistance Program,” and rescind Chapter 73, “Commodity Distribution Programs,” Iowa Administrative Code.

Chapter 73 currently holds rules for several U.S. Department of Agriculture (USDA) donated foods programs: the Federal Surplus Food Program, the Soup Kitchen Program, and the Institutional Program. The entire contents of the chapter are now obsolete under current federal law and regulation.

A new Chapter 66 is created to establish the rules governing administration of the federal Emergency Food Assistance Program (TEFAP) in Iowa. The Department of Human Services is the agency designated to administer TEFAP. The Department is responsible for receiving, storing, distributing, and accounting for USDA-donated foods under TEFAP. The Department contracts with eligible charitable institutions to receive, store, handle, and distribute USDA-donated foods. The Department is required to give preference to emergency feeding organizations when selecting contractors. Currently all TEFAP contractors are Iowa food banks.

Each contractor serves a designated area and is allocated an amount of the donated foods that Iowa receives that is proportionate to the percentage of the Iowa residents with income at or below 185 percent of the federal poverty level who live in that area. The TEFAP contractor is responsible for distributing commodities to needy individuals or households in the most cost-effective and comprehensive manner possible. TEFAP contractors may subcontract with other eligible recipient agencies for the distribution of commodities.

These rules address the procedures for an organization to become a TEFAP contractor, contract requirements, procedures for distribution of commodities, guidelines for determining eligibility of low-income households, policies and procedures for reimbursement of contractor expenses, procedures for handling losses of commodities, procedures for state monitoring of contractor performance, limitations on a contractor’s conducting of unrelated activities, and procedures for handling complaints. The rules represent current TEFAP operations in Iowa and do not change current policies or procedures.

These amendments do not provide for waivers in specified situations because they reflect federal requirements that the Department has no authority to waive.

Any interested person may make written comments on the proposed amendments on or before October 18, 2005. Com-

ments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 234.12.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** 441—Chapter 66 as follows:

CHAPTER 66

EMERGENCY FOOD ASSISTANCE PROGRAM

PREAMBLE

This chapter sets forth the rules governing the emergency food assistance program in Iowa. The Iowa department of human services has been designated by the governor as the agency responsible for administration of the emergency food assistance program. The department is responsible for receiving, storing, distributing, and accounting for foods donated through the U.S. Department of Agriculture (USDA).

For information about the emergency food assistance program and other food distribution programs, contact the Iowa Department of Human Services, Division of Financial, Health, and Work Supports, Food Distribution Program Manager, 1305 East Walnut Street, Des Moines, Iowa 50319-0114; telephone (515)281-5410. Clarifications of federal policy may be obtained by referencing 7 CFR Part 251 and 7 CFR Part 250, when applicable.

441—66.1(234) Definitions.

“Bonus items” means USDA-donated commodities that are so designated by USDA, are offered by USDA to the states as a one-time offer, and are not charged or credited against a state’s entitlement.

“Charitable institution” means a facility that is public or private, nonprofit, and tax-exempt under the Internal Revenue Code as documented by a letter of exemption; is not a penal institution (including a correctional institution that conducts rehabilitation programs); and provides food assistance to needy persons.

“Commodities” means foods donated or available for donation by the USDA.

“Contract” means a formal, written agreement between the department and an eligible recipient agency regarding receiving, storing, handling, and distributing commodities.

“Contractor” means an eligible recipient agency that has entered into a contract with the department regarding storing, handling, and distributing commodities.

“Department” means the Iowa department of human services.

“Distribution site” means a location where an eligible recipient agency actually distributes commodities to needy persons for home consumption or serves prepared meals to needy persons.

“Eligible recipient agency” means a charitable institution that has entered into a contract with the department for the receipt of commodities or administrative funds or has entered into an agreement with another eligible recipient agency that has signed such a contract with the department. Eligible recipient agencies may include food banks, food pantries, soup

HUMAN SERVICES DEPARTMENT[441](cont'd)

kitchens, hunger relief centers, hospitals, retirement homes, Nutrition Services Incentive Programs that operate congregate meals sites or provide home-delivered meals (to the extent that they serve predominately needy persons), summer camps for children or child nutrition programs providing food service, and disaster relief programs. An eligible recipient agency shall meet federal requirements as described at 7 CFR 251.3(d) and 7 CFR 251.5(a), as published on January 1, 2005.

“Emergency feeding organization” means an eligible recipient agency that provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, under an agreement with the department. Emergency feeding organizations can include food banks, food pantries, soup kitchens, emergency shelters, and hunger relief centers.

“FNS” means the Food and Nutrition Service, a division of the USDA that administers food assistance programs.

“Food bank” means a public or charitable institution that maintains an established operation involving the provision of food or edible commodities or the products thereof to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that, as an integral part of their normal activities, provide meals or food to needy persons on a regular basis.

“Food distribution program” means the office in the department’s division of financial, health, and work supports that is responsible for administering the FNS food distribution programs.

“Food pantry” means a public or private nonprofit organization that distributes food to low-income and unemployed households to relieve situations of emergency and distress.

“Household” means a single individual living alone or a group of related or nonrelated individuals who live together, who are not boarders or residents of an institution, and who purchase and prepare food for home consumption.

“Program manager” means a department employee who is assigned to fulfill department responsibilities for management of the USDA FNS food distribution programs.

“Soup kitchen” means a public or charitable institution that provides prepared food to needy homeless persons on a regular basis as a part of its normal activities.

“Subcontract” means a contract between a contractor, as defined in this chapter, and another eligible recipient agency.

“Subcontractor” means an eligible recipient agency that has entered into a subcontract with a contractor, as defined in this chapter.

“Subsidiary distributing organization” means an eligible recipient agency that holds a contract with the department and is also under subcontract with another eligible recipient agency for the distribution of federal commodities.

“TEFAP” means the Emergency Food Assistance Program as authorized by the Emergency Food Assistance Act of 1983 as amended through Public Law 107-249, enacted October 23, 2002.

“USDA” means the United States Department of Agriculture.

441—66.2(234) Application to be a TEFAP contractor. An organization that seeks to be a TEFAP contractor shall submit a written request to the Iowa Department of Human Services, Division of Financial, Health, and Work Supports, Food Distribution Program Manager, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. The written request shall contain sufficient information about the applicant to enable the department to determine whether the applicant quali-

ties to be an eligible recipient agency as defined at 441—66.1(234).

66.2(1) Determination of eligibility. Within ten days of receipt of an applicant’s written request to be a TEFAP contractor, the program manager shall notify the applicant in writing of the department’s decision. The department shall approve an applicant’s request to be a TEFAP contractor only when both of the following are true:

a. The applicant qualifies to be an eligible recipient agency as defined at 441—66.1(234).

b. A contract with the applicant, in addition to those eligible recipient agencies currently under contract with the department, will allow the department to distribute commodities in Iowa to needy individuals or households in the most cost-effective and comprehensive manner possible.

66.2(2) Administrative review of denial of eligibility. When an applicant’s request to be a TEFAP contractor is denied by the program manager, the applicant may request an administrative review by sending a letter requesting review of the denial to the administrator of the division of financial, health, and work supports. The applicant shall send the letter within five days of receipt of the letter of denial.

a. When more information is needed, the administrator shall request the information within five days of receipt of the request for review.

b. The administrator shall review the denial and shall issue a decision within ten days of the request for review or of the receipt of additional information, whichever is later.

c. When the division administrator reverses the denial, the applicant shall be given the opportunity to negotiate a TEFAP contract.

441—66.3(234) Contracts. A contract between the department and an eligible recipient agency approved as described at subrule 66.2(1) shall cover receiving, storing, handling, and distributing commodities. A contract may also cover the issues of receiving, storing, handling, and distributing commodities through a subsidiary distributing organization that holds a subcontract with a contractor. A TEFAP contract shall include, but is not limited to, the following items:

66.3(1) Subcontractors subject to contract provisions. A contractor shall ensure that its subsidiary distributing organizations, if any, and other subcontractors that the organizations serve are subject to all the provisions of the contract between the department and the contractor.

66.3(2) Oversight. A contractor shall oversee each subcontractor that the contractor serves.

66.3(3) Program documentation. A contractor shall maintain a file on each subcontractor that the contractor serves, documenting the programs of the subcontractor and the procedures the subcontractor uses to determine household eligibility under the policies described at 441—66.5(234).

66.3(4) Issue rates. A contractor shall determine the issue rates for each subcontractor that the contractor serves, based on the subcontractor’s:

- a. Ability to distribute without waste;
- b. Anticipated use based on inventory records and controls; and
- c. Ability to accept and store commodities.

66.3(5) Maintenance of expenditures. Each contractor and subcontractor shall maintain its normal expenditures for food with no reduction due to receipt of commodities.

66.3(6) Distribution to low-income households. A contractor or subcontractor that distributes commodities to households must limit the distribution of commodities to

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households that meet the eligibility criteria as described at 441—66.5(234).

66.3(7) Meal sites serving needy persons. A contractor or subcontractor that provides prepared meals must demonstrate that it serves predominantly needy persons. The agency is not required to employ a means test or to keep records solely for the purpose of demonstrating that its recipients are needy.

441—66.4(234) Distribution. The department is the agency responsible for food distribution in Iowa under TEFAP. TEFAP commodities and funds are allocated and delivered to Iowa by the USDA according to the USDA formula as defined at 7 CFR 251.3(h), as published on January 1, 2005.

66.4(1) Distribution contractors. The department shall enter into a contract for distribution of commodities with a qualified eligible recipient agency approved as described at subrule 66.2(1) to distribute commodities in Iowa to needy individuals or households in the most cost-effective and comprehensive manner possible.

a. Subcontractors. TEFAP contractors may subcontract with other eligible recipient agencies for distribution of commodities.

b. Emergency feeding organizations. In the distribution of commodities, the department shall give priority to eligible recipient agencies that are emergency feeding organizations. If the need arises, the department shall implement a priority system to serve predominately needy persons.

c. Use of subsidiary distributing organizations. A contractor may furnish services through another eligible recipient agency as a subsidiary distributing organization, provided that the contractor has a written contract with the subsidiary distributing organization.

66.4(2) Allocation to contractors. The department shall make commodities available for distribution to contractors in accordance with the provisions of 7 CFR Part 251, as published on January 1, 2005, and of 7 CFR Part 250, as published on January 1, 2005, when the provisions of Part 250 are not inconsistent with 7 CFR Part 251.

a. Timing of allocation. To the extent possible, the department shall allocate commodities to the contractors each month.

b. Basis for allocation. The allocation of commodities to each contractor is based on the percentage of the Iowa residents with income at or below 185 percent of the federal poverty level who live in the area that each contractor serves.

66.4(3) Variations in distribution. The department may withhold or reduce the delivery of commodities to contractors under the following circumstances:

a. When commodities are not available or have not been transported to the state in time for delivery;

b. When the commodities inventory is not sufficient to meet all requests;

c. When an eligible recipient agency has commodities on hand in excess of the amount that could be used without waste in providing services for the number of needy persons served;

d. When the state's supply is depleted; or

e. When the department or USDA has issued orders restricting distribution of certain food items.

66.4(4) Special provisions for situations of disaster and distress. The department reserves the right to distribute commodities in situations of disaster, emergency, or distress to any affected area in Iowa. In these situations, the department shall use commodities in the central warehouse first and shall then, if necessary, use commodities from the inventory of each contractor. Federal regulations at 7 CFR 250.43 and

7 CFR 250.44, as published on January 1, 2005, shall apply in these situations.

441—66.5(234) Household eligibility. Household eligibility is determined by residence, household size, and income.

66.5(1) Residence. Household members shall be residing in the state of Iowa.

66.5(2) Household size. Household size is determined by the number of people living in a dwelling, excluding boarders, as household is defined at 441—66.1(234).

66.5(3) Income eligibility. All earned and unearned income of the household shall be considered in determining eligibility.

a. Income defined. Income means all income received by an individual from sources identified by the U.S. Census Bureau in computing median income and includes:

- (1) Money wages or salary;
- (2) Net income from nonfarm self-employment;
- (3) Net income from farm self-employment;
- (4) Dividends;
- (5) Interest;
- (6) Income from estates or trusts;
- (7) Net rental income and royalties;
- (8) Public assistance or welfare payments;
- (9) Pensions and annuities;
- (10) Workers' compensation;
- (11) Alimony;
- (12) Child support;
- (13) Veterans' pensions;
- (14) Social security;
- (15) Railroad retirement;
- (16) Supplemental security income;
- (17) State or federal assistance;
- (18) Veterans' benefits;
- (19) Black lung benefits;
- (20) All disability pensions;
- (21) State supplementary assistance;
- (22) Unemployment compensation benefits; and
- (23) Income from minors under 16 years of age.

b. Determination of income. Earned or unearned income shall be the gross annual, monthly, or weekly income.

(1) Biweekly income shall be multiplied by 2.15 to determine monthly income.

(2) Adjusted gross self-employment income shall be averaged over a 12-month period.

(3) Income received from interest and dividends shall be averaged over a 12-month period.

(4) The amount of income that stops or starts during the month shall be estimated based on the best information available.

c. Income exclusions. When calculating total household income for this program, all income shall be excluded that is specifically excluded for food assistance by federal statute, especially those sources listed in federal regulations at 7 CFR 273.9(c)(10) as published on January 1, 2005.

d. Income guidelines. Households are eligible for TEFAP when the countable household income is at or below 185 percent of the federal poverty guidelines. These federal guidelines are revised annually, effective every July 1. The department shall forward these income guidelines annually to contractors.

441—66.6(234) Reimbursement for allowable costs. To the extent that funds are available for payment, the department shall pay allowable costs to contractors as reimbursement for expenses attributable to the program. TEFAP payments by the department are subject to federal regulations at

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7 CFR Part 251, as published on January 1, 2005, especially 7 CFR 251.8(e).

66.6(1) Allowable costs. "Allowable costs" are the direct costs incurred for intrastate storage and transportation of federal commodities. Allowable costs shall include:

- a. Costs to rent, lease, operate, and maintain storage facilities and transportation equipment.
- b. Costs to load, unload, distribute, and otherwise handle, account for, and manage the distribution of federal commodities.
- c. Salary and support expenses of employees and operations necessary in the management, coordination, and accomplishment of TEFAP food distribution to the extent that expenses are directly attributed to the storage and distribution of federal commodities.
- d. Costs associated with determinations of eligibility, verification, and documentation;
- e. Costs of providing information to persons receiving commodities concerning the appropriate storage and preparation of such commodities; and
- f. Costs of other administrative procedures required for participation in the program.

66.6(2) Reimbursement request. Contractors must complete Form 470-0298, Federal Emergency Assistance Food Distribution Report/Reimbursement Request, in order to file for reimbursement.

66.6(3) Rate of reimbursement. The department shall reimburse each contractor at a per-gross-pound rate to be determined by the department and included in the agreement with the contractor. In the event the department cannot maintain this level of reimbursement throughout the term of the contract, the reimbursement shall be adjusted based on the available funds remaining from the USDA grant.

66.6(4) No reimbursement for bonus items. The department shall not reimburse a contractor for bonus items received. The department cannot project the amount and items received as bonus items throughout the year. Each contractor or subcontractor shall have the option to refuse bonus items.

441—66.7(234) Commodity losses and claims. Commodities which cannot be demonstrated by appropriate records or other satisfactory evidence to have been delivered to, or to be available in good condition for delivery to, eligible recipient agencies for whom they were intended are considered to be lost commodities.

66.7(1) Circumstances of loss. Commodities may be lost through one or more of the following means:

- a. Theft, damage, spoilage, or infestation in transit or in storage.
- b. Improper distribution to institutions, families, or individuals or distributing above authorized rates.
- c. Sale or exchange of commodities or diversion to an improper use.
- d. Failure to deliver end products according to contracted yields under a processing agreement.
- e. Other similar causes.

66.7(2) Reporting commodity losses. All commodity losses regardless of the dollar value shall be reported to the program manager by the responsible entity such as, but not limited to, contractors and subcontractors, warehouses, or carriers.

66.7(3) Determination of fault and claim procedures. The program manager shall investigate the commodity loss and determine who is at fault.

a. Losses exceeding \$100. The department shall initiate a claim action against an entity that has been determined to be

at fault if the value of the accumulated commodity loss exceeds \$100.

EXCEPTION: If there is evidence of violation of a federal or state statute, procedures in subrule 66.7(7) shall apply.

b. Losses exceeding \$2,500. When the department believes that a claim exists against an entity and the value of the lost commodities exceeds \$2,500, the department shall immediately refer the claim determination to the FNS regional office. When the department receives notice from FNS that a claim exists, the department shall immediately initiate the claim procedure.

c. Losses occurring in transit. A claim action must be initiated regardless of the value of the commodity losses if the commodity losses occur when in transit for delivery.

d. Demand letters. The department shall send up to three demand letters to the entity determined responsible for the loss.

e. Late charge. Interest shall be assessed against an entity beginning on the thirty-first day following the date of the first demand letter. Interest shall be assessed at the rate determined by the U.S. Treasury Department at the beginning of each fiscal quarter.

66.7(4) Claims payment. The claim shall be paid to the food distribution program.

a. Cash payment will be accepted.

b. Replacement with like items may be used in lieu of cash payment for losses with the approval of the program manager. Approval shall not be granted if the replacement in kind would result in further losses or if the inventory is already in excess. A claim for the loss of bonus items may not be paid through replacement in kind.

66.7(5) Administrative review of claim. An entity may request an administrative review of a claim by sending a letter requesting review of the claim and a copy of a demand letter to the administrator of the division of financial, health, and work supports within 20 days of receipt of its first demand letter.

a. When more information is needed, the administrator shall request the information within 5 days of receipt of the request for review of the claim.

b. The administrator shall review the claim and issue a decision affirming, altering, or reversing the claim decision within 10 days of the request for the review or the receipt of additional information, whichever is later.

66.7(6) Failure to make restitution. Failure to make restitution when requested is cause for cancellation of the contract.

66.7(7) Referral for violation of federal or state statute. In instances of suspected violation of federal or state statute such as, but not limited to, embezzlement, misapplication, theft or fraud of any funds or commodities from the program, the department shall refer the case to the FNS.

441—66.8(234) State monitoring. The department shall annually review at least 25 percent of the TEFAP contractors and 10 percent of other eligible recipient agencies receiving commodities as subcontractors or 20 agencies, whichever is fewer. The department may contract with another entity to carry out these activities.

66.8(1) Elements of review. Reviews of contractors and subcontractors shall include a review of the following activities:

- a. Eligibility determination.
- b. Food ordering procedures.
- c. Storage and warehousing practices.
- d. Inventory control.
- e. Approval of distribution sites.

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f. Reporting.

g. Record-keeping compliance.

66.8(2) Report of findings. When a review of a contractor or subcontractor is completed, the department shall submit a report of findings to the agency that shall include:

a. A description of each deficiency found and contributing factors.

b. Any requirements for corrective action.

c. A timetable for establishing and completing a corrective action plan.

66.8(3) Monitoring of corrective action. The department shall monitor the corrective action activities of each contractor or subcontractor that has a corrective action plan.

441—66.9(234) Limits on unrelated activities. Contractors and subcontractors shall ensure that activities unrelated to the distribution of foods are conducted in a manner consistent with the limits in subrule 66.9(1).

66.9(1) Allowable activities. Activities unrelated to the distribution of foods may be conducted at distribution sites in the following circumstances:

a. Not part of commodity distribution. The persons conducting the activity shall make clear to commodity recipients that the activity is not part of commodity distribution and is not endorsed by the department.

(1) Impermissible activities include, but are not limited to, information not related to commodity distribution placed in or printed on bags, boxes, or other containers in which commodities are distributed.

(2) Recipes or information about commodities, dates of future distributions, hours of operations, or other federal, state, or local government programs or services for the needy may be distributed without a clarification that the information is not endorsed by the department.

b. Cooperation not required for receipt of commodities. The persons conducting the activity shall make clear to commodity recipients that cooperation is not a condition of the receipt of the commodities. Cooperation includes, but is not limited to, contributing money, signing petitions, or conversing with the person.

c. Does not disrupt or interfere with the distribution of commodities. The activity shall not be conducted in a manner that disrupts the distribution of the commodities.

66.9(2) Termination of contract. Except as provided in subrule 66.9(3), the department shall immediately terminate from further participation in commodity distribution any contractor or subcontractor that distributes or permits distribution of materials in a manner inconsistent with the provisions of subrule 66.9(1).

66.9(3) Exception to termination of contract. The department may withhold termination of a contract if the department cannot find another eligible recipient agency to operate the distribution in the area served by the violating organization. In these circumstances, the department shall monitor the distribution of commodities by the violating organization to ensure that no further violations occur.

441—66.10(234) Complaints.

66.10(1) Complaints regarding commodities. Each contractor or subcontractor shall immediately advise the department in writing of any complaints regarding commodities. The contractor or subcontractor shall provide complete information pertaining to the product and reason for complaint so that the department or USDA can conduct a proper investigation.

66.10(2) Complaints regarding eligible recipient agencies. A contractor shall promptly investigate any complaints

it receives about the contractor or its subcontractors. Within ten days of receipt of the complaint, the contractor shall forward to the department a written report of the findings and the action taken. The department reserves the right to conduct an investigation if deemed necessary.

These rules are intended to implement Iowa Code section 234.12.

ITEM 2. Rescind and reserve **441—Chapter 73.**

ARC 4532B

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 234.6 and 238.16, the Department of Human Services proposes to amend Chapter 108, “Licensing and Regulation of Child-Placing Agencies,” Chapter 130, “General Provisions,” and Chapter 202, “Foster Care Services,” Iowa Administrative Code.

These amendments conform rules about foster care services to directives in 2005 legislation. 2005 Iowa Acts, House File 753, amends Iowa Code chapter 232 to require that certain safety-related information concerning a child must:

- Be included in the child’s case permanency plan, child in need of assistance social investigation report, or delinquency predispositional report; and
- Be provided to the child’s parent, guardian, foster parent, or other person with custody of the child.

“Safety-related information” is defined to include information that indicates whether the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse. There is an exception to the requirement to release the information if the court or the placing agency has determined that the release would be detrimental to the child or to the family with whom the child is living.

2005 Iowa Acts, House File 825, requires the Department to allow an infant’s mother to continue to breastfeed the infant after the infant is removed from the infant’s home when this contact with the mother is in the best interest of the child. If the worker’s assessment is that the contact is appropriate, the Department will make a plan with the foster care provider to support the mother’s continued access to the child for breastfeeding.

These amendments do not provide for waivers in specified situations because the requirements to evaluate and report safety-related information and to allow breastfeeding when in the child’s best interest are set by law.

Any interested person may make written comments on the proposed amendments on or before October 18, 2005. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines,

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Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code sections 234.6 and 238.16, 2005 Iowa Acts, House File 753, and 2005 Iowa Acts, House File 825, section 16, subsection 17.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **441—108.1(238)** by adopting the following **new** definition in alphabetical order:

“Safety-related information” means information that indicates whether the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse.

ITEM 2. Amend rule 441—108.7(238) as follows:

Amend subrule **108.7(6)**, paragraph “c,” as follows:

c. A description of the child's strengths and needs and *safety-related information* provided to the foster family. *Safety-related information shall be withheld only if:*

(1) *Withholding the information is ordered by the court;*

(2) *The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.*

Amend subrule 108.7(11) as follows:

108.7(11) Parent and child contact. Provisions for contact between parents and children shall be made except where the parental rights have been terminated or where the court has determined that visits or contact are detrimental to the child.

a. *If the mother is breastfeeding the child:*

(1) *An assessment shall be made whether continuation of breastfeeding is in the best interest of the child; and*

(2) *A plan shall be developed to support the mother's breastfeeding efforts, if appropriate.*

b. The parents and child shall be informed of the contact plan in a manner consistent with their capacity to understand.

Amend subrule **108.7(14)**, paragraph “b,” as follows:

b. Information about the child's known behavioral characteristics *including safety-related information*, needs, and plans for the child and family. *Safety-related information shall be withheld only if:*

(1) *Withholding the information is ordered by the court;*

(2) *The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.*

ITEM 3. Amend rule **441—130.7(234)** as follows:

Amend the second unnumbered paragraph as follows:

The case plan shall become part of the client's case record. The client shall participate in the development of this plan to the extent possible. The case plan shall be consistent with other service or program plans. A copy of the case plan shall be provided to the client or, when indicated, to the parent or representative of the client. For adult services, the case plan shall be recorded using Form 470-0583, Individual Client Case Plan. For children's services, the case plan shall be known as the case permanency plan and shall be prepared using Form 470-3453, Family Case Plan.

Amend subrule **130.7(2)**, paragraph “c,” by adopting **new** subparagraphs (5) and (6) as follows:

(5) Safety-related information indicating whether a child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse. The safety-related information shall be withheld only if ordered by the court or the department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.

(6) An assessment of whether continued breastfeeding by a child's mother is in the best interest of the child, and a plan to support the mother's breastfeeding efforts, if appropriate.

ITEM 4. Amend rule **441—202.1(234)** by adopting the following **new** definition in alphabetical order:

“Safety-related information” means information that indicates whether the child has behaved in a manner that threatened the safety of another person, has committed a violent act causing bodily injury to another person, or has been a victim or perpetrator of sexual abuse.

ITEM 5. Amend subrule 202.5(2) as follows:

202.5(2) ~~Prior to~~ *Before* placement, the worker shall provide the facility with general information regarding the child, including a description of the child's medical needs, behavioral patterns *including safety-related information*, educational plans, and permanency goal. *Safety-related information shall be withheld only if:*

a. *Withholding the information is ordered by the court;*

b. *The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.*

ITEM 6. Amend subrule 202.6(1) as follows:

202.6(1) At the time of placement, the worker shall provide the facility with specific information regarding the child including the case permanency plan; the results of a physical examination; the child's medical needs including special needs of HIV, behavioral patterns *including safety-related information*, and educational arrangements; the placement contract or agreement; and medical authorizations, service authorizations, and other releases as needed.

a. ~~Prior to~~ *Before* releasing specific information about HIV, the department shall use Form 470-3225, Authorization to Release HIV-Related Information, to obtain a release from the child or the child's parent or guardian, or a court order permitting the release of the information.

(1) *The person receiving this information shall complete Form 470-3227, Receipt of HIV-Related Information, shall be completed by the person receiving this information to document understanding of the confidentiality of this knowledge.*

(2) Form 470-3226, HIV General Agreement, shall be completed by foster parents who have agreed to care for children who have AIDS, test HIV positive, or are at risk for HIV infection.

b. *Safety-related information shall be withheld only if:*

(1) *Withholding the information is ordered by the court;*

(2) *The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.*

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ITEM 7. Amend subrule 202.10(4) as follows:

202.10(4) Making available all known pertinent information needed for the care of the child including HIV status, *safety-related information*, and special confidentiality requirements.

a. ~~Prior to~~ *Before* releasing specific information about HIV, the department shall use Form 470-3225, Authorization to Release HIV-Related Information, to obtain a release from the child or the child's parent or guardian, or a court order permitting the release of the information. *The person receiving this information shall complete* Form 470-3227, Receipt of HIV-Related Information, ~~shall be completed by the person receiving this information~~ to document understanding of the confidentiality of this knowledge.

b. *Safety-related information shall be withheld only if:*

(1) *Withholding the information is ordered by the court;*
or

(2) *The department or the agency developing the service plan determines that providing the information would be detrimental to the child or to the family with whom the child is living.*

c. *When continued breastfeeding of the child is determined to be in the best interest of the child, the service worker and the foster parents shall make reasonable efforts to support the continued breastfeeding of the child by the mother.*

ITEM 8. Amend rule 441—202.11(234) by adopting **new** subrule 202.11(3) as follows:

202.11(3) When placement of a breastfeeding child is made, the service worker shall:

a. Assess in consultation with the worker's supervisor whether continued breastfeeding by the mother is in the best interest of the child;

b. Make every reasonable effort to support the mother's continued breastfeeding for the child if determined appropriate; and

c. Document the assessment and efforts in the child's case plan and case notes.

ITEM 9. Amend rule 441—202.12(234) by adopting **new** subrule 202.12(5) as follows:

202.12(5) When placement of a breastfeeding child is made, the service worker shall:

a. Assess in consultation with the worker's supervisor whether continued breastfeeding by the mother is in the best interest of the child;

b. Make every reasonable effort to support the mother's continued breastfeeding of the child if determined appropriate; and

c. Document the assessment and efforts in the child's case plan and case notes.

ARC 4547B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority here-

by gives Notice of Intended Action to amend Chapter 3, “Multifamily Housing,” Iowa Administrative Code.

The proposed amendments extend the maximum loan term to 40 years and increase the maximum size of subordinate loans.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed amendments until 5 p.m. on October 18, 2005. Comments may be addressed to Donna Davis, Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to Donna Davis at (515)242-4957 or E-mailed to donna.davis@ifa.state.ia.us. Persons who wish to comment orally should contact Donna Davis at (515)242-4990.

These amendments are intended to implement Iowa Code sections 16.5(17) and 16.18(1).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend paragraph **3.5(1)“d”** as follows:

d. The maximum loan term is 24 months for construction financing and ~~30~~ 40 years for permanent financing.

ITEM 2. Amend paragraph **3.34(3)“a”** as follows:

a. The maximum loan amount cannot exceed ~~25~~ 50 percent of the authority's first mortgage loan and second mortgage loan, if any, under the program.

ITEM 3. Amend paragraph **3.34(3)“b”** as follows:

b. The loan term shall not exceed ~~30~~ 40 years.

ARC 4549B**IOWA FINANCE AUTHORITY[265]****Notice of Termination**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority hereby terminates the rule making initiated by its Notice of Intended Action published in the August 3, 2005, Iowa Administrative Bulletin as **ARC 4422B**. The Notice of Intended Action proposed to amend Chapter 19, “State Housing Trust Fund,” Iowa Administrative Code.

The proposed amendment would have adopted a new 2006 allocation plan for the state housing trust fund. However, due to a lack of funds, the Authority will not make trust fund awards in fiscal year 2006. Accordingly, the rule making for **ARC 4422B** is terminated.

ARC 4551B**IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(17) and 16.133, the Iowa Finance Authority hereby gives Notice of Intended Action to adopt new Chapter 26, "Water Pollution Control Works and Drinking Water Facilities Financing," Iowa Administrative Code.

This amendment proposes a new chapter concerning the State Revolving Fund program operated by the Authority. The Authority provides financing to carry out the functions of the state revolving fund (SRF) loan programs. Under an agreement with the United States Environmental Protection Agency (EPA), the Iowa SRF is administered by the Iowa Department of Natural Resources in partnership with the Authority. The Authority and the Iowa Department of Natural Resources administer the SRF programs under the terms of interagency agreements entered into pursuant to Iowa Code chapter 28E.

The proposed new chapter contains rules to guide the Authority in the financial aspects of the program, including loan programs, project funding, loan approval and loan terms.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority's rules.

The Authority will receive written comments on the proposed chapter until 4:30 p.m. on October 18, 2005. Comments may be addressed to Lori Beary, Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa 50309. Comments may be faxed to (515)242-4957 or E-mailed to Lori.Beary@iowa.gov. Persons who wish to comment orally should contact Lori Beary at (515)242-4990.

The Authority will hold a public hearing on October 18, 2005, to receive public comments on this amendment. The public hearing will be held from 10 to 11 a.m. at the office of the Iowa Finance Authority, 100 East Grand, Suite 250, Des Moines, Iowa; (515)242-4990.

The Authority anticipates that it may make changes to these rules based on comments received from the public.

These rules are intended to implement Iowa Code sections 16.5(17) and 16.133.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following **new** chapter is proposed.

CHAPTER 26**WATER POLLUTION CONTROL WORKS AND DRINKING WATER FACILITIES FINANCING**

265—26.1(16) Statutory authority. The authority to provide loans to eligible applicants to assist in financing drinking water and wastewater treatment facilities and water pollution control projects is provided by Iowa Code sections 16.131 through 16.133.

265—26.2(16) Purpose. The Iowa finance authority provides financing to carry out the functions of the state revolving fund (SRF) loan programs. Under an agreement with the United States Environmental Protection Agency, the Iowa SRF is administered by the Iowa department of natural resources in partnership with the Iowa finance authority. The authority and the Iowa department of natural resources administer the SRF programs under the terms of interagency agreements entered into pursuant to Iowa Code chapter 28E.

265—26.3(16) Definitions.

"Authority" or "IFA" means the Iowa finance authority.

"Clean Water Act" or "CWA" means the federal Water Pollution Control Act of 1972, as amended by the Water Quality Act of 1987.

"Commission" means the environmental protection commission of the Iowa department of natural resources.

"Department" or "DNR" means the Iowa department of natural resources.

"Director" means the director of the authority.

"DWSRF" means the drinking water state revolving fund.

"Eligible costs" means all costs related to the completion of a project as defined in the CWA and SDWA and 567—Chapters 40 and 90.

"EPA" means the United States Environmental Protection Agency.

"Intended use plan" or "IUP" means the program document identifying the intended uses of funds available for loans pursuant to the WPCSRF and the DWSRF.

"Nonpoint source" means any project described in Section 319 of the Clean Water Act.

"Recipient" means the entity receiving funds from the SRF.

"Safe Drinking Water Act" or "SDWA" means Title XIV of the federal Public Health Service Act, commonly known as the "Safe Drinking Water Act," as amended by the Safe Drinking Water Amendments of 1996.

"SRF" means the state revolving fund.

"WPCSRF" means the water pollution control state revolving fund.

265—26.4(16) Project funding.

26.4(1) Intended use plans/state project priority lists. The state project priority lists shall include projects eligible for SRF loans as provided in 567—Chapters 44 and 92. The authority will consider the following when determining whether to provide a loan to an eligible recipient:

a. Recipient's financial capability to repay the loan and to provide operation and maintenance, replacement reserves, and, if required, debt service reserves;

b. Recipient's statement of willingness to accept all loan terms and conditions;

c. The priority of the project;

d. Funds available; and

e. The technical review and approval of the project by the department.

26.4(2) Phased or segmented projects. Loan funds for future portions of phased or segmented projects cannot be ensured, although subsequent segments of a project which has been awarded financial assistance will receive priority over other new projects. Loans made for separate phases or segments of a project will be administered separately.

26.4(3) Loan adjustments. Loan amounts may be adjusted to reflect eligible costs.

26.4(4) Recipient record keeping. The recipient shall maintain records that document all costs associated with the project. Moneys from the SRF and those contributed by the

IOWA FINANCE AUTHORITY[265](cont'd)

recipient shall be accounted for separately. Accounting procedures shall conform to generally accepted government accounting standards. The recipient shall agree to provide access to these records to the department, the authority, the state auditor, the state or EPA, and the Office of the Inspector General at the EPA. The recipient shall retain such records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

26.4(5) Site access. The recipient shall agree to provide the department and the department's agent access to the project site at all times to verify that the loan funds are being used for the intended purpose and that the construction work meets all applicable state and federal requirements. Recipients shall also agree to provide the department periodic access to the project site for the duration of the loan to ensure that the project is being operated and maintained as designed.

26.4(6) Cross-cutting laws. Other federal and state statutes and programs may affect an SRF project. Loan agreements will include an assurance that a recipient will comply with all applicable federal and state requirements.

265—26.5(16) WPCSRF/DWSRF infrastructure construction loans.

26.5(1) Loan agreements. The authority will prepare a loan agreement when the application has been determined to be in compliance with the requirements of the CWA/SDWA and applicable state rules for SRF funding. The loan shall be accompanied by an enforceability opinion in a form acceptable to the authority and, if applicable, a bond counsel opinion as to the status of interest on the obligation in a form acceptable to the authority. A copy of the current form of the loan agreement shall be provided to the applicant upon request.

26.5(2) Loan rates and terms. Loan terms for point source projects shall include the following:

a. Interest rates. Loan interest rates shall be established in the IUP and shall be established by taking into account factors including, but not limited to, the following:

- (1) Interest rate cost of funds to the SRF;
- (2) Availability of other SRF funds;
- (3) Prevailing market interest rates of comparable non-SRF loans; and
- (4) Long-term SRF viability.

b. Loan initiation fee. The loan initiation fee shall be established in the IUP. The fee shall be payable on the closing date of the loan agreement.

c. Annual loan servicing fee. The annual loan servicing fee shall be established in the IUP. The fee shall be due at the time of each annual principal repayment.

d. Revenue pledge. The recipient shall establish sufficient revenue sources that are acceptable to the director for the repayment of the loan. To ensure repayment of obligations according to the terms of the loan agreement, the recipient shall agree to impose, collect, and increase, if necessary, user charges, taxes, or other dedicated revenue sources identified for the loan repayment in order to maintain annual net revenues at a level equal to at least 110 percent of the amount necessary to pay debt service on all revenue obligations during the next fiscal year, provided, however, that, at the discretion of the director, the authority may allow other revenue sources and coverage of less than 110 percent as security. In case of loan default, the authority shall have authority to require revenue adjustment, through the manner described above, to collect delinquent loan payments.

e. Security. The loan shall be secured by a first lien upon the dedicated source of repayment which may rank on a parity basis with other obligations. The dedicated source of re-

payment is expected to be the net revenues of the recipient's system and the loan is expected to be secured by a first lien on said net revenues. Loans secured by revenues of a system may rank on a parity basis with other outstanding obligations or, with the approval of the director, may be subordinate in right of payment to the recipient's other outstanding revenue obligations. Loans may also be secured by a general obligation of the recipient through the provision for a levy of taxes to repay the loan.

f. Construction payment schedules. An estimated construction drawdown schedule provided by the recipient shall be part of the loan agreement.

26.5(3) Loan commitments. A loan agreement shall be a binding commitment of the recipient.

26.5(4) Purpose of payments. The recipient shall use the proceeds of the WPCSRF/DWSRF loan solely for the purpose of funding the approved project.

26.5(5) Costs. All eligible costs must be documented to the satisfaction of the authority and the department before proceeds of the loan will be disbursed.

26.5(6) Loan amount and repayment period. All loans shall be made contingent on the availability of funds and shall be for a minimum of \$50,000, the maximum loan term will be that allowed by EPA, and repayment of the loan must begin no later than one year after the project is completed or by the date specified in the loan agreement.

26.5(7) Prepayment. No prepayment of the loan principal may be made within the first ten years of the loan term, other than those repayments resulting from a loan agreement adjustment based on final costs.

265—26.6(16) Planning and design loans.

26.6(1) Timing of loan. Prior to a recipient's execution of a loan agreement for project construction, funds may be loaned to the recipient to pay for initial eligible costs, including the cost of facility planning and design engineering.

26.6(2) Duration. Planning and design loans may not have a duration of longer than three years from their date of execution.

26.6(3) Interest rate. The interest rate will be that rate specified in the most recent IUP.

26.6(4) Rollover to construction loan. All funds borrowed by the recipient as a planning and design loan may be financed as a part of a construction loan agreement upon expiration of the term of the planning and design loan.

26.6(5) Repayment. If the recipient does not execute an SRF construction loan, the planning and design loan shall be paid in full at the end of the three-year term.

265—26.7(16) Disadvantaged community status.

26.7(1) Criteria for disadvantaged community status. The authority, in conjunction with the department, may develop criteria to determine disadvantaged community status, based on the community's median household income and target user charges. Criteria to determine disadvantaged community status shall be established in the IUP.

26.7(2) Interest rate. Interest rates for disadvantaged communities shall be established in the IUP.

265—26.8(16) WPCSRF nonpoint source set-aside loan programs.

26.8(1) Nonpoint source loan assistance. Loan assistance for nonpoint source projects shall be in the form of low-interest loans or pass-through loans or through linked deposits through participating lending institutions.

26.8(2) Application for loan assistance. Application for loan assistance may be made at any participating lending institution or submitted to the authority or the authority's agent,

IOWA FINANCE AUTHORITY[265](cont'd)

as applicable. A list of participating lending institutions will be made available by the authority, financial agent or other entity that the authority may use to administer this program. Application for loan assistance shall be made on forms provided by the authority or its agent.

26.8(3) Project approval. Each project must be approved by the appropriate environmental or conservation agency as determined by the department.

26.8(4) Loan approval. For linked deposit programs, the participating lending institution shall, upon receipt of a completed loan application form, either approve or deny the loan in accordance with the program requirements. If the loan is approved, the lending institution shall notify the authority or its agent in order to reserve funds in that amount to ensure that funds are available at the time of disbursement. If the loan is denied, the lending institution shall notify the loan applicant, clearly stating the reasons for the loan denial. For low-interest loans with the authority, the authority, or its

agent, shall notify the applicant of the loan approval or denial.

26.8(5) Availability of funds. Before acting on a loan application, the lending institution shall ensure that adequate funds are available for the project and that the completed project has been inspected and approved by the appropriate environmental or conservation agency as determined by the department.

26.8(6) Property transfer. In the event of property transfer from the applicant to another person or entity during the repayment period specified in the loan agreement, the balance of the loan shall be immediately due in full.

26.8(7) Loan amount and period. All loans shall be made contingent on the availability of funds in the applicable fund or set-aside program as indicated in the IUP. The minimum and maximum loan amounts that will be considered are dependent on project type and are set forth as follows:

Type of Project	Type of Assistance	Minimum Loan Amount	Maximum Loan Amount	Maximum Loan Term	Project Approval Agency
General Nonpoint Source	Low-interest loans or linked deposit	\$5,000	No maximum	20 years	DNR
Local Water Protection	Linked deposit	\$5,000	\$50,000	10 years	Division of Soil Conservation
Livestock Water Quality Facilities	Pass-through loans	\$10,000	Not to exceed 50% of the livestock water quality set-aside	Equal to expected life of facility but no greater than 20 years.*	DNR
Onsite Wastewater Systems Assistance	Linked deposit	\$2,000	No maximum	10 years	County Sanitarian

* If the loan is made only for preparation of a comprehensive nutrient management plan, the loan period shall not exceed 5 years.

26.8(8) Prepayment. For direct loans, prepayment of the loan principal in whole or in part shall be allowed without penalty.

26.8(9) Loan adjustments. If the eligible costs exceed the loan amount, the recipient may request an increase in the loan amount. The lending institution is authorized to execute a loan for a principal amount of up to 10 percent above the amount of the loan application if the eligible costs exceed the application amount. To determine the appropriate action, the authority will evaluate the request by considering available moneys in the fund as well as the financial risk. Should the eligible costs be less than the loan amount, the loan shall be appropriately adjusted.

26.8(10) Disbursement of funds. Funds shall be disbursed in accordance with the loan agreement. The loan agreement may allow for periodic disbursement of funds.

265—26.9(16) Termination and rectification of disputes.

26.9(1) Termination. The authority shall have the right to terminate any loan if a term of the agreement has been violated. Loans are subject to termination if construction has not begun within one year of the execution of a loan agreement. The director will establish a repayment schedule for funds already loaned to the recipient. Every termination must be in writing.

26.9(2) Rectification and disputes. Failure of the recipient to implement the approved project or to comply with the applicable requirements constitutes grounds for the authority, the authority's agent, or the participating lending institution to withhold loan disbursements. The recipient is responsible for ensuring that the identified problem(s) is rectified. Once the deficiency is corrected, the loan funds can be released. A recipient that disagrees with the director's withholding of loan funds may request a formal review of the action. The recipient must submit to the director a written re-

quest for a formal review of the action within 30 days of receiving notice that loan disbursements will not be released.

These rules are intended to implement Iowa Code sections 16.5(17) and 16.133.

ARC 4527B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 60, “Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences,” Iowa Administrative Code.

The proposed amendment adopts new rules relating to temporary permits.

Any interested person may make written comments on the proposed amendment no later than October 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.iowa.us.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

A public hearing will be held on October 18, 2005, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 155 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rules 645—60.9(157) and 645—60.10(157) and adopt the following **new** rule in lieu thereof:

645—60.9(157) Temporary permits.

60.9(1) Temporary permits to practice cosmetology arts and sciences. An applicant who is applying for initial licensure and is not licensed in another state and who has met the requirements for licensure except for the written examinations may apply for a temporary permit to practice cosmetology arts and sciences. The temporary permit shall be valid for a maximum of 60 days from the date of issuance. The temporary permit holder shall practice under direct supervision of a licensee. After 60 days, the temporary permit shall be invalid and the person may not practice in the cosmetology arts and sciences. The temporary permit shall be revoked if an applicant fails either the written practical and theory examination or the Iowa law (jurisprudence) examination twice. The applicant shall submit the temporary permit to the testing service before the applicant sits for another examination.

60.9(2) Temporary permit for demonstrating or not-for-profit events. The board may issue a temporary permit for the purpose of demonstrating cosmetology arts and sciences services to the consuming public or for providing cosmetology arts and sciences services to the consuming public at not-for-profit events.

a. The permit shall be valid for (name of a specific event) for a salon, school, or person. The location, purpose and duration of the permit shall be stated on the permit.

b. The permit shall be valid for no more than 10 days.

c. A completed application shall be submitted on a form provided by the board at least 30 days in advance of the intended use date(s).

d. An application fee shall be submitted as set forth in these rules.

e. No more than four permits shall be issued to any applicant during a calendar year.

f. For not-for-profit events, individuals providing services must hold a current license provided by the board pursuant to rule 60.2(157).

ARC 4525B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Cosmetology Arts and Sciences Examiners hereby gives Notice of Intended Action to amend Chapter 60, "Licensure of Cosmetologists, Electrologists, Estheticians, Manicurists, Nail Technologists, and Instructors of Cosmetology Arts and Sciences," Chapter 61, "Licensure of Salons and Schools of Cosmetology Arts and Sciences," and Chapter 64, "Continuing Education for Cosmetology Arts and Sciences," Iowa Administrative Code.

The proposed amendments amend rules to correct terminology and use the word "reactivation" instead of "reinstatement," clarify continuing education requirements, and delete the word "initial" in subrules 61.3(3) and 61.8(3) to allow the subrules to apply to all types of licenses.

Any interested person may make written comments on the proposed amendments no later than October 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on October 18, 2005, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 155 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **60.11(2)**, paragraph "c," as follows:

c. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. ~~The new licensee will be required to complete a minimum of eight hours of continuing education per biennium for each subsequent license renewal period.~~

ITEM 2. Amend subrule 61.3(3) as follows:

61.3(3) A salon that is issued an ~~initial~~ license within six months of the license renewal date will not be required to renew the license until the next renewal two years later.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

ITEM 3. Amend rule 645—61.4(272C) as follows:

645—61.4(272C) Lapsed Inactive salon license.

61.4(1) If the renewal application and fee are not post-marked within 30 days after the license expiration date, the salon license is ~~lapsed inactive~~. To ~~reinstate reactivate~~ a salon license, the ~~reinstatement reactivation application and fee, renewal fee for each biennium the license is lapsed and the late fee shall be submitted to the board office.~~

61.4(2) A salon that has not renewed the salon license within the required time frame will have a ~~lapsed an inactive~~ license and shall not provide cosmetology services until the license is ~~reinstate reactivated~~.

61.4(3) ~~After the reinstatement of a lapsed license, the salon shall renew at the next scheduled renewal cycle.~~

ITEM 4. Amend subrule 61.8(3) as follows:

61.8(3) ~~Schools A school that are is issued their initial licenses a license within six months of the license renewal date will not be required to renew their licenses the license until the next renewal one year later.~~

ITEM 5. Amend rule 645—61.9(272C) as follows:

645—61.9(272C) Lapsed Inactive school license.

61.9(1) If the renewal application and fee are not post-marked within 30 days after the license expiration date, the school license is ~~lapsed inactive~~. To ~~reinstate reactivate~~ the school license, the ~~reinstatement reactivation application and fee, renewal fee for each year the license is lapsed and the late fee shall be submitted to the board.~~

61.9(2) A school that has not renewed the school license within the required time frame will have a ~~lapsed an inactive~~ license and shall not provide schooling or services until the license is ~~reinstate reactivated~~.

61.9(3) ~~After the reinstatement of a lapsed license, the school shall renew at the next scheduled renewal date.~~

ITEM 6. Amend subrule 64.2(2) as follows:

64.2(2) Requirements of new licensees. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses. Continuing education hours acquired anytime from the initial licensing until the second license renewal may be used. ~~The new licensee will be required to complete a minimum of eight hours of continuing education per biennium each subsequent license renewal.~~

ARC 4543B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby gives Notice of Intended Action to amend Chapter 100, "Practice of Funeral Directors, Funeral Establishments, and Cremation Es-

tablishments," and Chapter 101, "Licensure of Funeral Directors," Iowa Administrative Code.

These proposed amendments redefine "authorized person," change subrule 101.10(2) to delete the word "initial," revise student practicum requirements, and update requirements regarding preparation of a body. The Board prenoticed rules to revise the definition of "authorized person" to provide licensees and the public an opportunity to comment. The Board did not receive any comments during this prenotice period.

Any interested person may make written comments on the proposed amendments no later than October 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on October 18, 2005, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 156 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend **645—100.1(156)** by rescinding the definition of "authorized person" and adopting the following **new** definition in lieu thereof:

"Authorized person" means that person or persons upon whom a funeral director may reasonably rely when making funeral arrangements including, but not limited to, embalming, cremation, funeral services, and the disposition of human remains. In the absence of a contrary court order, a funeral director may reasonably rely upon any available member of the following classes of persons, in the order of priority listed:

1. The spouse of the decedent if not legally separated from the decedent.

2. The decedent's surviving adult children. If there is more than one adult child, any adult child, who can confirm in writing the notification of all other adult children, may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult child. Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable.

3. The surviving parents of the decedent whose whereabouts are reasonably ascertainable.

4. The decedent's surviving adult grandchildren. If there is more than one adult grandchild, any adult grandchild, who can confirm in writing the notification of all other adult grandchildren, may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult grandchild. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable.

5. An adult sibling of the decedent. If there is more than one adult sibling, any adult sibling, who can confirm in writing the notification of all other adult siblings, may serve as

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

the authorizing agent, unless the funeral director or crematory authority receives any objection from another adult sibling. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable.

6. A grandparent of the decedent. If there is more than one grandparent, any grandparent, who can confirm in writing the notification of all other grandparents, may serve as the authorizing agent, unless the funeral director or crematory authority receives any objection from another grandparent. Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable.

7. Other adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.

8. The county medical examiner, if responsible for the decedent's remains.

A funeral director may await court order before finalizing the funeral arrangements if the funeral director is aware of a dispute between the authorized person or persons who would be in a priority position under the definition of "authorized person" in this rule and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons within the same priority classification.

ITEM 2. Amend subrule **100.6(3)**, paragraph "a," as follows:

a. Pack *or otherwise secure* all body orifices with material which will absorb and retain all secretions.

ITEM 3. Amend subrule **100.6(4)**, paragraph "c," as follows:

c. If viewing of the unembalmed human remains is requested, the human remains shall be topically disinfected and all body orifices shall be packed *or otherwise secured* with material which will absorb and retain all secretions. No public viewing will be allowed of an unembalmed decedent who has died of a reportable communicable disease, but private viewing is permissible at the discretion of the funeral director.

ITEM 4. Rescind rule 645—101.6(156) and adopt the following **new** rule in lieu thereof:

645—101.6(156) Student practicum.

101.6(1) A student may participate in a student practicum in a licensed funeral establishment in Iowa if the student's school is accredited by and in good standing with the American Board of Funeral Service Education (ABFSE). The student practicum must meet the requirements of the ABFSE.

101.6(2) Students serving a practicum in Iowa shall be under the direct physical supervision of a funeral director who meets the following requirements:

a. Has completed the Iowa preceptor training course within the immediately preceding five years.

b. Has not had any formal disciplinary action within the past five years.

c. Is affiliated with a funeral establishment that has not had formal disciplinary action within the past five years.

ITEM 5. Amend subrule 101.10(2) as follows:

101.10(2) An individual who was issued an ~~initial~~ **a** license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Continuing education hours acquired anytime from the initial licensing until the second license re-

newal may be used. The licensee will be required to complete a minimum of 24 hours of continuing education per biennium for each subsequent license renewal.

ITEM 6. Amend subrule 101.14(2) as follows:

101.14(2) Reactivation of the inactive license may be granted by the board if the applicant:

a. Submits a written application for reactivation of the funeral establishment or cremation establishment license, or both licenses, to the board; *and*

b. ~~Pays the late fee for failure to renew;~~

c. ~~Pays the reactivation fee;~~ *and*

d. ~~Pays the renewal fee(s).~~

ARC 4542B

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Mortuary Science Examiners hereby gives Notice of Intended Action to amend Chapter 105, "Fees," Iowa Administrative Code.

This proposed amendment revises fees to be paid. The revised fees will fund changes to an antiquated software system and provide other services for licensees, such as online renewals. The Board prenoticed the revised fees to provide licensees and the public an opportunity to comment. The Board did not receive any comments during this prenotice period.

Any interested person may make written comments on the proposed amendment no later than October 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on October 18, 2005, from 9:30 to 10 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendment.

This amendment is intended to implement Iowa Code chapters 21, 147, 156 and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind rule 645—105.1(147,156) and adopt the following **new** rule in lieu thereof:

645—105.1(147,156) License fees. All fees are nonrefundable.

PROFESSIONAL LICENSURE DIVISION[645](cont'd)

105.1(1) Licensure fee for license to practice funeral directing is \$120.

105.1(2) Biennial funeral director's license renewal fee for each biennium is \$120.

105.1(3) Late fee for failure to renew before expiration is \$60.

105.1(4) Reactivation fee for a funeral director is \$180 and for a funeral establishment or cremation establishment is \$150.

105.1(5) Duplicate or reissued license certificate or wallet card fee is \$20.

105.1(6) Verification of license fee is \$20.

105.1(7) Returned check fee is \$25.

105.1(8) Disciplinary hearing fee is a maximum of \$75.

105.1(9) Funeral establishment or cremation establishment fee is \$90.

105.1(10) Three-year renewal fee of funeral establishment or cremation establishment is \$90.

105.1(11) State law and rules examination fee is \$50, and each retake of the examination is \$50.

This rule is intended to implement Iowa Code section 147.8 and chapters 17A, 156 and 272C.

ARC 4524B**PROFESSIONAL LICENSURE
DIVISION[645]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 147.76, the Board of Examiners for Massage Therapy hereby gives Notice of Intended Action to amend Chapter 131, “Licensure of Massage Therapists,” and Chapter 135, “Fees,” Iowa Administrative Code.

These amendments propose changes to allow a licensee who renews within six months of a new licensing cycle to wait until the subsequent renewal period, require proof of licensure from every state in which an applicant was previously licensed, and propose a new fees rule that increases fees to fund changes to an antiquated software system and provide other services for licensees such as online renewals. The Board prenoticed the fees rule to provide licensees and the public an opportunity to comment on the proposed rule. The Board did not receive any comments during this prenotice period.

Any interested person may make written comments on the proposed amendments no later than October 18, 2005, addressed to Pierce Wilson, Professional Licensure Division, Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075; E-mail pwilson@idph.state.ia.us.

A public hearing will be held on October 18, 2005, from 8:30 to 9 a.m. in the Fifth Floor Board Conference Room, Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for

the record and to confine their remarks to the subject of the proposed amendments.

These amendments are intended to implement Iowa Code chapters 21, 147, 152C and 272C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Adopt **new** subrule 131.2(10) as follows:

131.2(10) The applicant shall provide verification of license(s) from every state in which the applicant has been licensed as a massage therapist, sent directly from the state(s) to the board office.

ITEM 2. Amend subrule 131.8(2) as follows:

131.8(2) An individual who was issued an initial *a* license within six months of the license renewal date will not be required to renew the license until the subsequent renewal date two years later. Those persons licensed for the first time shall not be required to complete continuing education as a prerequisite for the first renewal of their licenses.

ITEM 3. Rescind rule 645—135.1(147) and adopt the following **new** rule in lieu thereof:

645—135.1(147) License fees. All fees are nonrefundable.

135.1(1) Licensure fee for license to practice massage therapy is \$120.

135.1(2) Biennial license renewal fee for each biennium is \$60.

135.1(3) Temporary license fee for up to one year is \$120.

135.1(4) Late fee for failure to renew before expiration is \$60.

135.1(5) Reactivation fee is \$120.

135.1(6) Duplicate or reissued license certificate or wallet card fee is \$20.

135.1(7) Verification of license fee is \$20.

135.1(8) Returned check fee is \$25.

135.1(9) Disciplinary hearing fee is a maximum of \$75.

135.1(10) Initial application fee for approval of massage therapy education curriculum is \$120.

This rule is intended to implement Iowa Code chapters 17A, 147 and 272C.

ARC 4523B**RAILWAY FINANCE
AUTHORITY[765]****Notice of Intended Action**

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Iowa Railway Finance Authority hereby gives Notice of Intended Action to adopt Chapter 5, “Railroad Revolving Loan and Grant Fund Program,” Iowa Administrative Code.

Iowa Code section 327H.20A as amended by 2005 Iowa Acts, House File 875, section 31, establishes a railroad revolving loan and grant fund under the control of the Iowa Railway Finance Authority. These rules contain require-

RAILWAY FINANCE AUTHORITY[765](cont'd)

ments and procedures for administration of loans and grants from the fund.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may submit a petition for a waiver using the procedures in 761—Chapter 11.

Any person or agency may submit written comments concerning these proposed rules or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.

4. Be addressed to the Department of Transportation, Director's Staff Division, 800 Lincoln Way, Ames, Iowa 50010; fax (515)239-1639; Internet E-mail address: julie.fitzgerald@dot.iowa.gov.

5. Be received by the Director's Staff Division no later than October 18, 2005.

A meeting to hear requested oral presentations is scheduled for Thursday, October 20, 2005, at 10 a.m. in the Administration Building, First Floor, South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed rules may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Director's Staff Division at the address listed in this Notice by October 31, 2005.

These rules are intended to implement Iowa Code section 327H.20A as amended by 2005 Iowa Acts, House File 875, section 31, and section 327I.8 as amended by 2005 Iowa Acts, House File 875, section 33.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

Proposed rule-making action:

Adopt the following **new** chapter:

CHAPTER 5
RAILROAD REVOLVING LOAN AND
GRANT FUND PROGRAM

765—5.1(327H,327I) Introduction. The railroad revolving loan and grant fund program provides funding in the form of loans and grants for railroad-related improvement projects that spur economic development and job growth. The railroad revolving loan and grant fund is established in Iowa Code section 327H.20A as amended by 2005 Iowa Acts, House File 875, section 31, and is under the control of the Iowa railway finance authority (IRFA).

765—5.2(327H,327I) Definitions.

"Rail facilities" includes railroad main lines, branch lines, switching yards, sidings, rail connections, intermodal yards and highway grade separations.

765—5.3(327H,327I) Information. Information may be obtained from IRFA staff at the following address: Iowa Rail-

way Finance Authority Coordinator, Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1140. Completed applications shall be submitted to this address.

765—5.4(327H,327I) Purpose of program. The purpose of the railroad revolving loan and grant fund program is to provide loans and grants for railroad-related improvement projects that will provide benefits to Iowa in terms of direct economic development and job growth or through economic benefits derived from railroad transportation service improvements.

765—5.5(327H,327I) Funding.

5.5(1) The IRFA board is responsible for determining the projects to be funded and the amount of funding for each project.

5.5(2) The minimum amount of matching funds required of an applicant is 20 percent of the project cost.

5.5(3) No more than 50 percent of the total funds available in any year shall be awarded in the form of grants.

765—5.6(327H,327I) Project criteria.

5.6(1) All rail facilities are eligible for project funding except:

a. At-grade crossing surface repair or replacement unless the repair or replacement is a part of railroad line construction or reconstruction.

b. Signals, gates or other crossing protection unless the crossing protection is a part of new railroad line construction.

5.6(2) An applicant must demonstrate that its project will provide benefits to Iowa in terms of direct economic development and job growth or through economic benefits derived from railroad transportation service improvements.

765—5.7(327H,327I) Applicant eligibility.

A railroad company, railroad user, city, county, metropolitan planning organization, regional planning affiliation, or any other entity with an interest in a rail transportation improvement is eligible to apply for funding. Joint applications are allowed and encouraged, but the applicants shall designate one contact person.

765—5.8(327H,327I) Eligible and ineligible project costs.

5.8(1) Eligible costs. Activities or items eligible for funding include, but are not limited to, the following:

a. Modernization, upgrading or reconstruction of existing rail facilities.

b. Construction of new rail facilities.

c. Railroad bridge and culvert modernization, replacement or removal.

d. Right-of-way acquisition costs.

5.8(2) Ineligible costs. The following activities or items are ineligible for funding:

a. Contract administration.

b. Freight car or locomotive lease, purchase or repair.

c. Feasibility studies, environmental studies or major investment studies related to a railroad improvement project.

d. Refinancing of a completed project that would have otherwise qualified under this chapter.

765—5.9 Reserved.

765—5.10(327H,327I) Project application.

5.10(1) Submission. Applications may be submitted at any time.

a. The applicant shall submit an original and two copies of a project application to the address in rule 765—

RAILWAY FINANCE AUTHORITY[765](cont'd)

5.3(327H). There is no prescribed application form.

b. If an application is incomplete, IRFA staff shall return the application to the applicant to be resubmitted when it is complete.

c. An application may be withdrawn at any time after submission.

5.10(2) Contents of application. Each application shall contain the following:

a. The applicant's name, address, telephone number, facsimile number and E-mail address (if available) and the name of a designated contact person for the project.

b. A detailed description of the project proposed for funding, including a map or sketch plan.

c. The justification for the project, including the following information:

(1) The need for and purpose of the project.

(2) How the project will impact the local and state economies, including the number of new jobs to be created, the number of potential jobs that may be created and the number of jobs to be retained as a result of the project.

(3) The long-term growth and development potential of the area or industry to be supported and the direct and indirect economic, transportation, and environmental impacts of the project.

d. An itemized estimate of all project costs and the proposed match or cost sharing based on the requested funding. A detailed financial plan to explain the funding for the entire project should be included, along with any associated development costs.

e. A time schedule for the completion of the project.

f. The total amount of loan and grant funds requested.

g. If loan funds are requested, the proposed loan term and interest rate and a detailed description of the applicant's ability to repay the loan. IRFA staff may require the applicant to provide audited financial statements for the past two years plus a current balance sheet and profit/loss statement for the entity that is to repay the loan. If the entity that is to repay the loan is a new entity, the applicant shall, instead, provide a pro forma balance sheet and pro forma profit/loss statement.

h. If requested by IRFA staff, endorsement of the project by a local government(s) that will be affected by the project and a description of how the project will impact the local government's transportation and economic development plans.

765—5.11(327H,327I) Project evaluation and approval.

5.11(1) Staff review. IRFA staff shall review the contents of each application for completeness. IRFA staff may visit the project site and may require the applicant to verify the information in the application. After IRFA staff determines that the application is complete, the staff shall develop a funding recommendation and shall schedule the project for submission to the IRFA board for approval.

5.11(2) Board evaluation. The IRFA board shall be responsible for selecting and determining the funding for each project, subject to the availability of railroad revolving loan and grant funds. The IRFA board may fund all or part of a project and may make funding dependent upon the applicant's adherence to a time schedule or fulfillment of specified conditions, including job creation commitments.

5.11(3) Board approval. In making its decision to fund a project, the IRFA board may consider the railroad transportation service benefits of the project, the economic development benefits of the project, the applicant's total capital investment, the number of direct and indirect jobs to be created or preserved by the project, the financing requested, an anal-

ysis of public benefits versus public costs, and other potential impacts or benefits of the project.

765—5.12(327H,327I) Project agreement and administration.

5.12(1) Agreement. After the IRFA board has approved funding for a project, IRFA staff shall negotiate and execute an agreement with the applicant. IRFA staff shall administer the agreement.

a. The agreement shall specify the scope of the project, the approved funding level, and other conditions for project funding.

b. As applicable, the agreement shall address responsibilities for project design, right-of-way acquisition, contracting, construction and materials inspection; documentation required for reimbursement of project costs; audit requirements; and maintenance of the completed project.

5.12(2) Reimbursement. The applicant will be reimbursed for eligible project costs in accordance with the agreement.

5.12(3) Audits.

a. Prior to execution of the agreement, IRFA staff may perform a preaudit evaluation of the applicant or others as defined in the agreement. A preaudit evaluation typically includes an examination of accounting methods to determine the applicant's ability to segregate and accumulate costs to be charged against the project, and an analysis of costs factors to ensure their propriety and allowability.

b. IRFA staff may conduct a final audit of all project costs.

5.12(4) Default. IRFA staff may revoke a funding commitment, seek repayment of funds loaned or granted or take both actions if the applicant fails to fulfill the terms of the agreement.

These rules are intended to implement Iowa Code section 327H.20A as amended by 2005 Iowa Acts, House File 875, section 31, and section 327I.8 as amended by 2005 Iowa Acts, House File 875, section 33.

ARC 4546B

SECRETARY OF STATE[721]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 52.5 and 47.1, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 22, “Alternative Voting Systems,” Iowa Administrative Code.

The proposed amendments make editorial changes to Chapter 22, provide additional security guidance to county commissioners to improve the safety of voting equipment, make changes to incorporate requirements of the Help America Vote Act (HAVA) and provide programming and vote-counting procedures for the newly certified Election Systems & Software voting system.

Proposed amendments to Chapter 22 to provide programming and vote-counting procedures for Election Systems & Software's Unity 2.5 voting system appear in Items 22, 25, 31 and 32.

SECRETARY OF STATE[721](cont'd)

Proposed amendments to Chapter 22 to implement requirements of HAVA appear in Items 7, 19 and 20. Item 7 adds the definition of “voting system” found in HAVA to Chapter 22. Item 19 requires all county commissioners of elections to provide to absentee voters in federal elections only the instructions provided by the State Commissioner of Elections. Section 301 of HAVA requires all voting systems, including absentee balloting in person or by mail, to notify each voter of the effect of casting multiple votes for an office and to provide the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error). To implement this requirement, the State Commissioner will provide the appropriate instructions for all federal elections. Item 20 rescinds the existing absentee instructions without replacing them. This amendment will permit the State Commissioner the ability to respond quickly to any changes in Iowa law that will affect the absentee ballot instructions.

Proposed amendments to Chapter 22 to improve election security appear in Items 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 18 and 20. These proposed amendments require each county to have a written security plan for its voting system. Procedures for computer security, acceptance testing of voting equipment, preelection testing of voting equipment, and emergency procedures are included.

Proposed amendments to Chapter 22 to provide uniform election procedures appear in Items 8, 9, 15, 16, 17, 23, 28 and 30. These proposed amendments include procedures for secrecy folders, handling ballots returned to voters by precinct optical scan devices at the polls, closing the polls, counting write-in votes, central count optical scan devices used for absentee and provisional ballots, and handling ballots abandoned by voters in voting machines.

Proposed editorial changes and additions to Chapter 22 appear in Items 1, 6, 7, 21, 24, 26, 27, 29 and 33. These amendments include changing the title of Chapter 22 from “Alternative Voting Systems” to “Voting Systems,” and improving definitions to harmonize language in the rules with commonly used terms. For improved clarity, the proposed amendments also incorporate into the procedural rules in Chapter 22 the rules that also appear elsewhere.

Any interested person may make written suggestions or comments on these proposed amendments by 5 p.m. on October 18, 2005. Written suggestions or comments should be directed to Sandy Steinbach, Director of Elections, First Floor, Lucas State Office Building, Des Moines, Iowa 50319. Comments may also be submitted by E-mail to sos@sos.state.ia.us. Please include the phrase “Election Rules” in the subject line.

Persons who wish to convey their views orally should contact the Secretary of State’s office at (515)281-5823 or at the Secretary of State’s offices on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 5 p.m. on Tuesday, October 18, 2005.

These amendments are intended to implement Iowa Code chapter 52.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend **721—Chapter 22**, title, as follows:

CHAPTER 22 ALTERNATIVE VOTING SYSTEMS

ITEM 2. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.31(52) Acceptance testing. When the commissioner receives voting equipment from a vendor, the commissioner shall carefully examine and test the equipment to:

22.31(1) Verify that the system delivered is certified for use in Iowa. The commissioner shall compare the voting system version numbers with the list of certified voting equipment provided by the state commissioner;

22.31(2) Verify that everything in the contract has been delivered by:

a. Comparing a copy of the purchase contract with the items received;

b. Making certain that all components, such as power cords, casters, and keys, are included;

c. Reviewing instruction and maintenance manuals to be sure that the correct version was provided; and

22.31(3) Verify that everything delivered actually works. The commissioner shall run a simulated election to confirm that each part of the system and the system as a whole functions properly.

ITEM 3. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.39(52) Preelection testing for direct recording electronic voting machine voting equipment.

22.39(1) Automatic testing—insufficient. Some vendors provide an automatically generated test program for direct recording electronic voting machines. Although these tests provide the user with information about the internal integrity of the machine, the automatic test is not an adequate preelection test; it does not include testing to show that the programming for the current election is correctly done; and it does not test the operation of the voter-operated functions of the machine.

22.39(2) Preelection test plan. Before it is used in an election, the commissioner shall subject the direct recording electronic voting machine to the following tests.

a. Automated test. Run the automated test on each machine and record the results.

b. Logic test. Verify that the correct ballot is installed for each direct recording electronic voting machine to be used in the election.

c. Touch test. As each ballot is reviewed, select and then deselect each candidate to verify that the candidate can be selected as a choice; leave the first (or last or other standard choice) selected to provide a check of the summary report when the test is closed; and save this result for a report of the touch-test results.

d. Public test. Select at least one direct recording electronic voting machine for each ballot style and test every office, judge and public measure on the ballot; and have copies of the touch-test results and the automated tests available for inspection.

The commissioner shall compile the results of all tests to demonstrate the election reporting function.

ITEM 4. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.42(52) Preparing test decks. Test ballots for optical scan voting equipment shall test the reporting of votes for every office and public measure on the ballot at the election.

SECRETARY OF STATE[721](cont'd)

Commissioners may use additional test methods to supplement the process described in this rule.

22.42(1) Requirements for all test decks. The commissioner shall:

a. Never erase errors and never use correction fluid or correction tape to cover errors. Replace the ballot instead.

b. Fill in each oval completely using the recommended pen or pencil.

c. Mark each ballot "Test Ballot."

22.42(2) Single-vote test deck. The commissioner shall use at least five ballots for this test deck. More ballots may be needed if the election includes rotated offices. The commissioner shall perform the following:

a. On both sides of each ballot, fill in the oval for the same candidate in each office. Always mark the first candidate listed under the office title, unless the candidates are rotated from precinct to precinct.

b. If the names of candidates are rotated, always mark the candidate whose last name comes first alphabetically. Mark one ballot for each rotation.

c. For public measures and judges, fill in the oval for the "yes" choice.

d. On general election ballots, always leave the straight party choice blank. (See subrule 22.42(5) for testing straight party voting.)

e. Check each ballot to be sure it is correctly marked for this test. Count the ballots. The first candidate in each office should have the same number of votes as there are ballots. An office for which more than one person is to be elected will have undervotes reported. There should be no overvotes in this deck.

f. Scan the ballots and then print a report that shows all offices, public measures and judges, including undervotes and overvotes.

22.42(3) Random test deck. The commissioner shall use this deck to test each oval that was not tested in the single-vote test deck and determine a systematic number of votes for each candidate in each office, such as two votes for the second candidate listed, three votes for the third candidate, etc. Using the report showing the results of the single-vote test deck as a guide, the commissioner shall record the planned number of votes for each candidate and record the planned number of overvotes and undervotes in the appropriate places on the report. The basic plan is as follows:

a. Mark votes for each candidate except the one that was voted for in the single-vote test deck.

b. For offices without candidates (these will have the same number of write-in lines as there are candidates to be elected), determine a unique, varying combination of votes and undervotes for the office.

c. For offices in which the voter may vote for more than one candidate, vote for the maximum allowed.

d. Include undervotes for all offices with only one candidate.

e. If there is only one office on the ballot, do not leave the office unmarked. The scanner will reject the ballot as blank.

f. For a single-precinct election, use at least two ballots in the random test deck.

g. Mark the test ballots according to the plan and check the marks on the ballots against the plan.

h. Scan the ballots and then print a report that shows all offices, public measures and judges, including undervotes and overvotes. Check the report against the plan. If there are differences, hand-tally the ballots to be sure that the ballots were marked according to the plan.

22.42(4) Overvote test. For an overvote test, the commissioner shall:

a. Mark all voting targets on one ballot.

b. On a second ballot, overvote each office by one vote.

c. Add to the manual tally the number of overvotes in this test. The tally for this part of the test deck will show no votes for any candidate. (Not all vendors report overvotes in the same way.)

22.42(5) Straight party test for general elections. For a straight party test, the commissioner shall:

a. Use at least two ballots for each straight party option. For each set of ballots:

(1) Mark only a straight party vote on one ballot.

(2) On the second ballot, mark the same straight party option and, for each office affected by the straight party vote, mark one candidate who is not a candidate for the selected party.

(3) If the election includes an at-large county supervisor race with more than one person to be elected, mark a ballot with a straight party vote and then vote for one candidate from the same political party as the straight party vote. Only this separately marked candidate should receive a vote.

b. Test each ballot separately. For each ballot:

(1) Scan the ballot and print a report showing the results for the whole ballot.

(2) Check the report to be sure that the votes marked were counted correctly. When the straight party choice is marked and the voter also marks one or more individual candidates for a partisan office, the straight party vote is ignored for that office. This process applies to any mark for any candidate, write-in selection or overvote in that office.

c. Compile the results of the straight party deck.

22.42(6) Combined test deck. The commissioner shall run the combined test decks and compare the results to the test plan. The scanner results and the hand tally must match.

ITEM 5. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.50(52) Voting system security. Each county shall have a written security policy. The policy shall include detailed plans to protect the election equipment and data from unauthorized access. The policy shall describe the methods to be used to preserve the integrity of the election and document the election process.

22.50(1) Staff access. The security policy shall describe who shall have access to the voting equipment.

22.50(2) Computers. For security purposes, computers used in the commissioner's office to prepare ballots and voting equipment programs or to compile and report election results should not be used for any other function and should not be linked to any computer network or to the Internet.

a. If the election computers are linked to a network or to the Internet, the commissioner shall use a firewall to filter network traffic. Data transmissions over the Internet shall be encrypted and password-protected.

b. Access shall be limited to persons specified by the commissioner in the written security policy. The level of access shall be included in a written security policy.

(1) Uniqueness. Every ID and password shall be unique. The creation of generic or shared user IDs is specifically prohibited. Each user shall have exactly one user ID and password, except where job requirements necessitate the creation of multiple IDs to access different business functions.

(2) Authority. Each user shall be granted only the level of access specifically required by the user's job. Use of "Ad-

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ministrators,” “Super User,” “Security Administrator,” or “SA” levels of authority shall be severely restricted.

(3) Generic user IDs. Staff members with generic user IDs are not allowed to sign on to voting systems.

(4) Password standards.

Account Policy	Recommended Setting
Maximum Password Age	90 days
Minimum Password Age	2 days
Minimum Password Length	8 characters
Enforced Password History	6 passwords (last 6 cannot be used)
Account Lockout (number of unsuccessful log-on attempts)	3 bad attempts
Account Lockout Duration	6 hours
Reset Account Lockout Counter After	6 hours

22.50(3) Evacuation. If it is necessary to evacuate the election office, a satellite absentee voting station or a polling place, the precinct election staff or the election officials shall immediately attempt to notify the commissioner and take the following actions:

a. Keep people safe. The officials shall make sure that all voters and other persons are safely out of the polling place.

b. Protect critical election documents and materials. After the safety of the voters and others has been secured, the officials shall remove or secure the following:

- (1) The ballot box or electronic voting device containing voted ballots.
- (2) The keys to the voting equipment and any memory cards, cartridges or other data storage devices containing the election information.
- (3) All unvoted ballots.
- (4) The precinct election register.
- (5) Signed declarations of eligibility.
- (6) The tabulating device.

ITEM 6. Amend **721—Chapter 22**, the division heading preceding rule 721—22.100(52), as follows:

~~SPECIAL PAPER BALLOT~~
OPTICAL SCAN VOTING SYSTEMS

ITEM 7. Amend rule **721—22.101(52)** as follows:

Amend the following definition:

“Ballot” means *the official document that includes* all of the offices or *public* measures to be voted upon at a single election, whether they appear on one or more special paper ballots.

Adopt the following **new** definitions in alphabetical order:

“Optical scan ballot” means a special paper ballot.
 “Optical scan voting system” means a tabulating device that reads ballots by detecting voters’ marks using reflected or absorbed light. An optical scan voting system may be used to count ballots either at the polling place (precinct count) or at a counting center (central count). Optical scan ballots are special paper ballots designed for use with an optical scan voting system.

“Voting system” means the total combination of mechanical, electromechanical or electronic equipment (including the software, firmware and documentation required to program, control and support the equipment that is used to define ballots, to cast and count votes, to report or display election results and to maintain and produce any audit trail information). “Voting system” also includes the practices and associated documentation used to identify system components

and versions of such components, to test the system during its development and maintenance, to maintain records of system errors and defects, to determine specific system changes to be made to a system after the initial qualification of the system and to make available any materials to the voter, such as notices, instructions, forms or paper ballots. (See Section 301(b) of HAVA.)

ITEM 8. Amend subrule 22.102(3) to read as follows:

22.102(3) The voting target shall be printed opposite each candidate’s name and write-in line on the special paper ballot, and opposite the “yes” and “no” for each public measure and judge. Wherever possible, the voting target shall be printed on the left side of the name or “yes” and “no”. *The voting target shall be an oval unless the voting system requires a target with a different shape.*

ITEM 9. Amend rule 721—22.102(52) by adding the following **new** subrules:

22.102(8) No office, including a judicial office, or public measure on any ballot shall be divided to appear in more than one column or on more than one page of a ballot. If the full text of a public measure will not fit on a single column of the ballot, the commissioner shall prepare a summary for the ballot and post the full text in the voting booth as required by Iowa Code section 52.25.

22.102(9) Ballots shall be stored in a locked room or storage area. Access to the storage area shall be restricted to those persons identified in the election security plan. Throughout the election process, the commissioner shall keep accurate records of the number of each type of ballot or ballot style printed for the election. This record shall include the number of ballots:

- a. Ordered from the printer.
- b. Printed and delivered by the printer to the commissioner. The commissioner may store sealed, unopened packages of ballots without verifying the number of ballots in the package.
- c. Used for testing as required by Iowa Code sections 52.9 and 52.35 and rule 721—22.41(52).
- d. Held in reserve for emergencies as required by Iowa Code section 49.66.
- e. Delivered to and returned from the polling places as required by Iowa Code sections 49.65 and 50.10.
- f. Used for absentee voting, including any spoiled ballots.
- g. Issued as sample ballots to the public as permitted by Iowa Code section 43.30.
- h. Photocopied ballots used pursuant to Iowa Code section 49.67.
- i. Printed by the commissioner using any voting system program, such as Election Systems & Software’s Ballot on Demand program.

ITEM 10. Amend rule 721—22.200(52) to read as follows:

721—22.200(52) Security.

22.200(1) At least one tabulating device shall be provided at each precinct polling place for an election. *If the tabulating device is delivered to the polling place before election day, it shall be secured against tampering or kept in a locked room.*

22.200(2) The maintenance key or keys used to gain access to the internal parts of the tabulating device shall be kept in a secure place and in a secure manner, in the custody of the commissioner. *The On election day, the key used to obtain the paper printout shall be kept by the chairperson of the pre-*

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cinct election officials in a secure manner. *Custody of small electronic devices, such as memory cards, cartridges or other data storage devices used to activate tabulation equipment or to store election information, shall be in the custody of the precinct chairperson when they are not installed on the voting equipment.*

ITEM 11. Amend rule 721—22.200(52) by adding the following **new** subrule:

22.200(3) If a password is needed for access to the tabulating device, the password shall be changed for every election. The commissioner shall restrict access to the password in the written security policy.

ITEM 12. Amend rule 721—22.201(52) to read as follows:

721—22.201(52) Programming and testing the tabulating devices for precinct count systems.

22.201(1) All programming of tabulating devices shall be performed under the supervision of the commissioner. The devices shall be programmed to ensure that all votes will be counted in accordance with the laws of Iowa. Tabulating devices shall be programmed to ~~reject~~ *return to the voter any ballots:*

- a. That are not coded to be used in the precinct.
- b. That are read as blank.
- c. That have one or more overvoted offices or public measures.

~~If a ballot is rejected for any of the reasons above, the voter shall be offered the opportunity to correct the ballot. The defective ballot shall be marked "Defective" and kept with other spoiled ballots. If the voter is not available, or declines to correct the ballot, the ballot shall be inserted into the precinct counter without further examination.~~

22.201(2) All tabulating devices shall be tested before each election in accordance with Iowa Code section 52.38. In addition to any certification produced on the printout, the paper printout produced in testing the tabulating device shall be signed at the end where the tape will be detached from the machine by the person conducting the test and by any observers present at the test. The tape shall be torn or cut across the ~~signature~~ *signatures*, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester's signature, shall be delivered to the precinct election officials to display throughout election day with the report showing all counters have been reset to zero in the precinct. Immediately after the test is finished, the tabulating device, the ballot box, and the door to any compartment containing the programming for the election shall be sealed or locked by the person performing the test.

ITEM 13. Amend rule 721—22.231(52) to read as follows:

721—22.231(52) Emergency procedures ballot box or bin. Each precinct shall be furnished with an emergency ballot box ~~which or bin that~~ is suitably equipped with a lock and key or numbered, tamperproof seal. In the event of power failure or malfunction of the tabulating device, *voted ballots which have been voted* shall be deposited in the locked or sealed emergency ballot box *or bin*. *A precinct election official shall put the ballot into the emergency ballot box or bin for the voter.* The voted ballots so deposited may be removed from the locked emergency ballot box *or bin* and tabulated before the polls close whenever a properly functioning tabulating device becomes available, or the voted ballots so deposited may be removed and counted *electronically or manually*

immediately after the polls are closed. *If the ballots are counted manually, the precinct election officials shall follow the requirements of 721—Chapter 26.*

ITEM 14. Amend rule 721—22.232(52) to read as follows:

721—22.232(52) Manner of voting. After the precinct election official has endorsed a ~~special paper~~ ballot, the official shall instruct the voter to use only the marker provided. The ~~special paper~~ ballot shall be inserted in a secrecy envelope folder and given to the person who is entitled to receive the ballot in accordance with the provisions of Iowa Code section 49.77.

22.232(1) *The precinct officials shall provide each voter with a secrecy folder. The commissioner may print basic ballot marking instructions on the secrecy folder. It is not necessary to print information on secrecy folders that will limit the usefulness of the secrecy folder to one or more elections or election types.* Upon receipt of the ballot in the secrecy envelope folder, the voter shall retire alone to a voting booth and without delay mark the ~~special paper~~ ballot.

22.232(2) The voter shall vote upon the ~~special paper~~ ballot by marking the appropriate voting target with a ~~vote-marking device or a #2 an appropriate pen or pencil~~ in the manner described in the instructions printed on the ballot.

When a write-in vote has been cast, the ~~special paper~~ ballot must also be marked in the corresponding voting target in order to be counted.

22.232(3) After marking the ballot, the voter shall replace it in the secrecy envelope folder and leave the voting booth at once.

22.232(4) The voter shall at once deposit the ballot, still enclosed in the secrecy envelope folder, in the tabulating device so that the ~~special paper~~ ballot is automatically removed from the secrecy envelope folder, the votes tabulated, and the ~~special paper~~ ballot deposited in the ballot box.

22.232(5) If the tabulating device is not equipped with a mechanism that will not permit more than one ballot to be inserted at one time, the voter shall be required to hand the ballot in the secrecy envelope folder to the precinct election official without revealing any of the marks on the ballot. The precinct election official shall at once deposit the ballot in the manner described in subrule 22.232(4).

ITEM 15. Amend rule 721—22.232(52) by adding the following **new** subrules:

22.232(6) If the tabulating device returns a ballot, the precinct official attending the device shall ask the voter to wait. Without examining the ballot, the official shall enclose the returned ballot in a secrecy folder. The official shall read to the voter the information provided by the device about the reason the ballot was returned. The voter shall be offered the opportunity to correct the ballot. The voter may use the spoiled ballot as a guide for marking the corrected ballot. The returned ballot shall be marked "spoiled." After the voter has marked the corrected ballot, the precinct officials shall collect the spoiled ballot and keep it with other spoiled ballots.

22.232(7) If the voter who cast the ballot that was returned is not available, or declines to correct the ballot, the precinct official shall not mark the ballot "spoiled" and shall reset the tabulating device to accept the ballot. The official shall insert the ballot into the precinct counter without further examination.

ITEM 16. Amend rule 721—22.240(52), introductory paragraph, to read as follows:

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721—22.240(52) Results. After the polls are closed and *the tabulating device has processed* all of the ~~special paper~~ ballots, including any ballots from the emergency ballot box or bin, have been processed by the tabulating device, the precinct election officials shall:

ITEM 17. Amend subrules 22.240(3) and 22.240(4) to read as follows:

22.240(3) Unlock or remove the seal on the ballot box or bin containing ballots with write-in votes and open it. The precinct officials shall remove the ballots and manually count the valid votes on any special paper ballots found in the portion(s) of the ballot box designated for unread ballots and ballots with write-in votes, and enter the votes so counted on the official tally sheet in the proper place write-in votes as required by 721—Chapter 26. The officials shall record the write-in votes in the tally list.

22.240(4) Seal all special paper ballots in a transfer case to be returned to the commissioner in accordance with Iowa Code section 50.12.

ITEM 18. Amend rule 721—22.241(52) to read as follows:

721—22.241(52) Electronic transmission of election results. If the equipment includes a modem for the electronic transmission of election results, the precinct officials may transmit the results after a printed copy has been made. *If the voting system includes a data card, cartridge or other small device that contains an electronic copy of the election results, the precinct chairperson shall secure the device and ensure its safe delivery to the commissioner.*

ITEM 19. Amend rule 721—22.250(52) to read as follows:

721—22.250(52) Absentee voting instructions. Printed instructions as set out in subrule 22.53(8) of this chapter shall be included with the special paper ballot or ballots given to or mailed to each absentee voter. Written instructions to the voter shall be sent with every absentee ballot. *For federal elections, the commissioner shall use only the instructions provided by the state commissioner.*

ITEM 20. Rescind rule 721—22.251(52).

ITEM 21. Amend rule 721—22.260(52) to read as follows:

721—22.260(52) Specific precinct count systems. Additional rules are provided for the following systems approved for use in Iowa. *Rule 721—22.261(52) applies only to the voting system indicated and is in addition to the general provisions set forth in rules 22.200(52) through 22.250(52).*

ITEM 22. Rescind rule 721—22.261(52) and adopt in lieu thereof the following **new** rule:

721—22.261(52) Election Systems and Software Model 100—preparation and use in elections.

22.261(1) Security. The commissioner shall have a written security plan for the voting system. Access to equipment, programs and passwords shall be limited to those persons authorized in writing by the commissioner. The security plan shall be reviewed at least annually.

a. Passwords used at the polling places on election day shall be changed for each election.

b. The control key for the Model 100 shall be in the possession of the precinct chairperson during election day.

22.261(2) Configuration choices. The following selections are mandatory for all elections:

a. Maximum number of votes. The following description for each office shall be used: “Vote for no more than xx.” Do not include “vote for” language for public measures or judges.

b. Ballot format. The voting target shall be printed on the left side of the candidate’s name and on the left side of each “yes” and “no” choice for public measures and judges. The voting target shape shall be an oval.

c. Ballot control. In an official election, the commissioner shall never program the Model 100 for unconditional acceptance of all ballots; shall not divert blank ballots to the write-in bin; and shall always accept undervoted ballots. The system shall be programmed to query the voter in each of the following situations:

- (1) Overvoted ballot.
- (2) Blank ballot.
- (3) Unreadable ballot.

d. Unit control. The commissioner shall not select automatic transmission of election results by modem. The precinct officials must print the official results at the polling place before transmitting them.

e. Reports. The following are required reports:

- (1) Opening the polls. Print the Zero Certification report.
- (2) Closing the polls. Print the poll report before transmitting the election results by modem. The poll report is the official record of the votes cast in the precinct on election day.
- (3) Certification text to appear at the end of the poll report:

We, the undersigned Precinct Election Officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the M100 Optical Scan tabulation device at this election. This is [not] the complete record of the ballots in the precinct. [Another set of results from the iVotronic direct recording electronic voting machine device must be added to these results for the complete results of this precinct.]

[print lines for each of the officials to sign]

Precinct Election Officials Date: _____ Time: _____

f. Reopen polls. The commissioner shall enable this option, but protect it against unauthorized use. If it is necessary to reopen the polls, the chairperson of the precinct board shall contact the commissioner for the password.

g. The commissioner shall not authorize automatic transmission of the election results immediately after closing the polls. The results shall be printed first.

22.261(3) Ballot printing. The voting target shall be an oval printed on the left side of the candidate’s name and the “yes” and “no” choices for judges and public measures.

a. Format. The office title, instructions about the maximum number of choices the voter can make for the office, the candidate names and all write-in lines associated with each office on the ballot shall be printed in a single column on the same side of the ballot. All text and the “yes” and “no” choices for each public measure and for each individual judge on a ballot shall be printed in a single column on the same side of the ballot. No office or public measure or judicial office on any ballot shall be divided to appear in more than one column or on more than one page of a ballot.

b. Instructions for voters. The following instructions shall be printed on ballots:

(1) Voting mark. Each choice on the ballot has an oval in front of it. To mark your choice, fill in the oval.

 CANDIDATE NAME (choice not marked)

 CANDIDATE NAME (choice marked)

SECRETARY OF STATE[721](cont'd)

(2) Straight party voting. To vote for all candidates from a single party, fill in the oval in front of the party name. Not all parties have nominated candidates for all offices. Marking a straight party vote does not include votes for nonpartisan offices, judges or questions.

(3) Public measures.

Notice to voters. To vote to approve any question on this ballot, fill in the oval in front of the word "Yes". To vote against a question, fill in the oval in front of the word "No".

22.261(4) System error messages. Precinct election officials shall be provided with the following list of system error messages and the appropriate responses. The officials shall be instructed to contact the commissioner or the commissioner's designee for all other messages.

Overvoted ballot returned. Ask voter to reinsert ballot. If the ballot is returned again, do not look at the voter's ballot. Put it in a secrecy folder. Tell the voter that for one or more offices the scanner read more votes than the maximum number of votes allowed. To correct the error, the voter must mark a new ballot and may copy votes from the original ballot. Only if the voter agrees to mark a new ballot, write "spoiled" on the original ballot and tear off one corner to prevent it from being accepted by the scanner. Advise the voter to return to the booth and mark the new ballot. Be sure to collect the spoiled ballot before the voter leaves.

Overvoted ballot accepted. This message will appear when the scanner accepts an overvoted ballot. The precinct election official should have authorized this.

Unidentified mark—check your ballot. One or more marks on the ballot are not dark enough to be seen as a vote. Do not look at the voter's ballot. Put it in a secrecy folder and return the ballot to the voter. Ask the voter to review the ballot and to darken the marks. Then the voter may put the ballot back into the scanner.

If any of the following messages appear more than twice for the same ballot, call the auditor's office to report the problem:

100—MISSED ORIENTATION MARKS/Turn Ballot Over and Try Again.

101—MISSED TIMING MARKS/Turn Ballot Over and Try Again.

102—NO DATA FOUND/Please Reinsert Ballot After Beeps.

104—ORIENTATION SKIP ERROR.

106—MISSED TIMING MARKS/Turn Ballot Over and Try Again.

If any of the following messages appear, ask the voter to remove the ballot and reinsert it. If the same message appears more than twice for the same ballot, call the auditor's office to report the problem:

107—BALLOT ERROR: INVALID CC SEQUENCE.

108—BALLOT ERROR: INVALID CC TYPE.

109—BALLOT ERROR: INVALID CC SPLIT.

115—MISSED BACK ORIENTATION MARK/Turn Ballot Over and Try Again.

119—MULTIPLE BALLOTS DETECTED/Please Reinsert Ballot After Beeps. Did the voter actually try to put an extra ballot in? Is the ballot folded?

123—UNABLE TO READ TIMING BAND/Turn Ballot Over and Try Again.

124—BALLOT DRAGGED/Turn Ballot Over and Try Again.

126—BLACK CHECK: FACE DOWN HEAD EDGE/Turn Ballot Over and Try Again.

127—BLACK CHECK: FACE DOWN TAIL EDGE/Turn Ballot Over and Try Again.

128—BLACK CHECK: FACE UP HEAD EDGE/Turn Ballot Over and Try Again.

129—BLACK CHECK: FACE UP TAIL EDGE/Turn Ballot Over and Try Again.

130—POSSIBLE FOLDED BALLOT/Turn Ballot Over and Try Again.

22.261(5) Preelection testing. The voting equipment shall be tested as part of the preparation for each election.

a. Test decks generated by the Ballot on Demand test deck program are not sufficient. These decks do not include tests for straight party voting or handling overvotes.

b. Ballots of every ballot style printed for the election shall be tested to ensure that they are correctly printed and can be read by the scanner.

c. Each Model 100 shall be tested publicly before use in any election following the requirements of rules 22.41(52) and 22.42(52).

22.261(6) Record retention. The Model 100 uses a thermal printer. The maximum anticipated life span of the results from each Model 100 is only five years. In order to preserve the permanent record of the precinct results required by Iowa Code section 50.19, the commissioner shall print a copy of the results of each precinct on permanent paper and store these copies with the tally lists from precincts where the Model 100 was used.

22.261(7) Using iVotronic and Model 100 in the same polling place. The officials shall print the vote totals from each machine after all ballots have been entered. The results from the two devices shall be added together at the polls on election night. The officials shall put each tape in the tally list. The officials may send the results from each device separately if the commissioner has authorized electronic transmission of the results.

ITEM 23. Amend 721—Chapter 22 by adding the following **new** rule under the Central Count Systems division heading:

721—22.340(52) Central count system processing. All central count scanners shall be configured to sort blank ballots and ballots containing marks in write-in vote targets for review by the resolution board. Central count scanners shall not be configured to sort ballots with overvotes. The resolution board shall follow the requirements of 721—subrule 26.2(2). The commissioner shall provide the resolution board with a copy of 721—Chapter 26, "Counting Votes."

ITEM 24. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.341(52) Counting absentee ballots and provisional ballots. Absentee and provisional ballot results shall be reported as a single precinct as required by subrule 22.102(7). All other procedures for tabulating absentee and provisional ballots shall be performed according to the procedures prescribed for central count systems.

ITEM 25. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.350(52) Election Systems & Software Model 650.

22.350(1) The following ballot preparation selections are mandatory for all elections:

a. Maximum number of votes. The following description for each office shall be used: "Vote for no more than xx." Do not include "vote for" language for public measures or judges.

SECRETARY OF STATE[721](cont'd)

b. Ballot format. The voting target shall be printed on the left side of the candidate's name and on the left side of each "yes" and "no" choice for public measures and judges. The voting target shape shall be an oval.

22.350(2) Reserved.

ITEM 26. Amend rule 721—22.431(52), introductory paragraph, to read as follows:

721—22.431(52) Temporary use of paper ballots in voting machine precincts. The county commissioner of elections shall furnish a supply of paper ballots to each precinct where voting machines, including direct recording electronic machines, are to be used for any election a supply of paper ballots.

ITEM 27. Amend subrule 22.431(1), introductory paragraph, to read as follows:

22.431(1) Conditions under which paper ballots shall be used. In any precinct in which voting machines are designated as the *only* method of voting for any election, a paper ballot shall be furnished to any person offering to vote, in addition to those provisions set out in Iowa Code sections 49.81 and 49.90, if:

ITEM 28. Amend subrule 22.431(4) to read as follows:

22.431(4) Counting the ballots.

a. If, during the time the polls are open, the problem is corrected and the voting machine or machines are found to be usable, before the voting machine is closed, the two precinct election officials responsible for the security of the paper ballots voted under these rules may open the closed container and record the votes which have been cast on the paper ballots on the voting machine or machines.

b. In the event that it has not been possible to record the paper ballots on the machines by the time the polls are closed if it is not possible to record on the voting machine the votes on the paper ballots, the precinct election officials shall manually count the paper ballots in the manner provided in Iowa Code chapter 50 and as required by rule 721—26.61(49).

ITEM 29. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.432(52) Abandoned ballots. If a voter leaves the voting booth without casting the ballot, the precinct election officials shall cast the ballot without examining the face of the machine. This rule applies to all voting machines listed in 721—subrule 26.2(4).

ITEM 30. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.433(52) Prohibited uses for direct recording electronic voting machines. No direct recording electronic voting machine shall be used for any of the following purposes:

22.433(1) In-person absentee voting pursuant to Iowa Code section 53.10 or 53.11.

22.433(2) Provisional voting pursuant to Iowa Code section 49.81.

22.433(3) Curbside voting pursuant to Iowa Code section 49.90.

ITEM 31. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.463(52) Election Systems & Software iVotronic.
22.463(1) Programming.

a. The version of the iVotronic certified for use in Iowa does not include the receipt printing option. The commissioner shall not enable receipt printing.

b. At least one iVotronic used in each polling place shall be prepared for audio ballot use.

22.463(2) Instructions for write-in votes for paired offices. The following instructions shall be included:

a. To write in a vote for President and Vice President, print the name of your choice for President first, followed by the name of your choice for Vice President.

b. To write in a vote for Governor and Lieutenant Governor, print the name of your choice for Governor first, followed by the name of your choice for Lieutenant Governor.

22.463(3) Automated tests included in the iVotronic system are not sufficient for preelection testing. The testing procedure prescribed in rule 22.39(52) shall be used in place of or in addition to the automated logic and accuracy test.

ITEM 32. Amend 721—Chapter 22 by adding the following **new** rule:

721—22.500(52) Blended systems. When the commissioner orders the use of precinct count optical scan and direct recording electronic voting machines in the same precinct, both components of the blended system shall be certified as part of the same voting system.

22.500(1) Accessible device. At least one of the two components shall be accessible to persons with disabilities. However, any voter may use the accessible device whether or not the person is disabled.

22.500(2) Encouraged use. Precinct election officials shall encourage the use of both components to protect the secrecy of all ballots. A single ballot cast on a voting device is not a secret ballot.

22.500(3) Combining totals. If the two devices cannot produce a single, combined report of the results of the precinct, the precinct officials shall not be required to add the totals together at the polls on election night. Precinct officials may submit the totals in a separate report for each device. The commissioner shall combine the totals for each precinct before releasing any unofficial reports.

ITEM 33. Amend 721—Chapter 22 by adopting the following **new** implementation clause:

These rules are intended to implement Iowa Code chapter 52.

ARC 4540B

STATE PUBLIC DEFENDER[493]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender proposes to amend Chapter 12, "Claims for Indigent Defense Services," Iowa Administrative Code.

This amendment increases the reimbursement rate of automobile mileage for court-appointed attorneys.

STATE PUBLIC DEFENDER[493](cont'd)

Interested persons may make written comments or suggestions on the proposed amendment on or before October 18, 2005. Written materials should be addressed to the State Public Defender, Lucas State Office Building, 4th Floor, 321 E. 12th Street, Des Moines, Iowa 50319-0087, faxed to (515) 281-7289, or E-mailed to msmith@spd.state.ia.us.

Also, there will be a public hearing on October 18, 2005, at 9 a.m. in Conference Room 319 of the Lucas State Office Building, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendment.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the State Public Defender and advise of specific needs.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 4539B**. The content of that submission is incorporated by reference.

This amendment is intended to implement Iowa Code chapters 13B and 815.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

NOTICE—PUBLIC FUNDS INTEREST RATES

In compliance with Iowa Code chapter 74A and section 12C.6, the committee composed of Treasurer of State Michael L. Fitzgerald, Superintendent of Credit Unions James E. Forney, Superintendent of Banking Thomas B. Gronstal, and Auditor of State David A. Vaudt have established today the following rates of interest for public obligations and special assessments. The usury rate for September is 6.25%.

INTEREST RATES FOR PUBLIC OBLIGATIONS AND ASSESSMENTS

- 74A.2 Unpaid Warrants Maximum 6.0%
- 74A.4 Special Assessments Maximum 9.0%

RECOMMENDED Rates for Public Obligations (74A.3) and School District Warrants (74A.7). A rate equal to 75% of the Federal Reserve monthly published indices for U.S. Government securities of comparable maturities. All Iowa Banks and Iowa Savings Associations as defined by Iowa Code section 12C.1 are eligible for public fund deposits as defined by Iowa Code section 12C.6A.

The rate of interest has been determined by a committee of the state of Iowa to be the minimum interest rate that shall be paid on public funds deposited in approved financial institutions. To be eligible to accept deposits of public funds of the state of Iowa, a financial institution shall demonstrate a commitment to serve the needs of the local community in which it is chartered to do business. These needs include credit services as well as deposit services. All such financial institutions are required to provide the committee with a written description of their commitment to provide credit services in the community. This statement is available for examination by citizens.

New official state interest rates, effective September 9, 2005, setting the minimums that may be paid by Iowa depositories on public funds are listed below.

TIME DEPOSITS

- 7-31 days Minimum 1.55%
- 32-89 days Minimum 2.05%
- 90-179 days Minimum 2.35%
- 180-364 days Minimum 2.65%
- One year to 397 days Minimum 2.95%
- More than 397 days Minimum 3.75%

These are minimum rates only. The one year and less are four-tenths of a percent below average rates. Public body treasurers and their depositories may negotiate a higher rate according to money market rates and conditions.

Inquiries may be sent to Michael L. Fitzgerald, Treasurer of State, State Capitol, Des Moines, Iowa 50319.

ARC 4544B

LABOR SERVICES DIVISION[875]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 89.14(8), the Boiler and Pressure Vessel Board adopts an amendment to Chapter 200, "General," Iowa Administrative Code.

Fees for inspections of boilers with less than 70 pounds per square inch of pressure were inadvertently deleted in the amendments published in the August 17, 2005, Iowa Administrative Bulletin as **ARC 4443B**.

The Boiler and Pressure Vessel Board finds, pursuant to Iowa Code section 17A.4(2), that notice and public comment are impracticable because the rule incorrectly deleting the fee went into effect September 21, 2005.

The Boiler and Pressure Vessel Board finds that this correction confers a benefit pursuant to Iowa Code section 17A.5(2)"b"(2) by providing continued funding which is necessary to allow necessary safety inspections of boilers with less than 70 pounds per square inch of pressure.

The intention of the Boiler and Pressure Vessel Board to set the fee at \$80 for inspection of boilers with less than 70 pounds of pressure per square inch was discussed in a May 3, 2005, public meeting. In order to provide additional notice to the public, an announcement of the fees for boilers will be prominently displayed on the Division of Labor Services Web site.

The principal reasons for adoption of this amendment are to implement the Boiler and Pressure Vessel Board's obligation to set the fees at a level appropriate to fund the program and to protect the public safety and health. No variance provision is included in this rule as variances can be sought through the Boiler and Pressure Vessel Board.

This amendment is intended to implement Iowa Code chapter 89.

This amendment became effective September 21, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend paragraph **200.4(3)"b"** as follows:

b. An \$80 fee for each boiler, other than a water heater supply boiler, having a working pressure ~~from 70 pounds per square inch~~ up to and including 450 pounds per square inch or generating between 20,000 and 100,000 pounds of steam per hour.

[Filed Emergency 9/6/05, effective 9/21/05]

[Published 9/28/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/28/05.

ARC 4526B

MEDICAL EXAMINERS
BOARD[653]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 147.76 and 272C.3, the Board of Medical Examiners hereby amends Chapter 8, "Fees," Chapter 9, "Permanent Physician Licensure," and Chapter 10, "Resident, Special and Temporary Physician Licensure," Iowa Administrative Code.

The amendments raise fees for the following types of physician licensure by the following amounts: initial licensure by \$50, special licensure by \$100, license renewal via on-line application by \$87.50, and license renewal via paper application by \$75. The fee to reinstate a license to active status within one year after becoming inactive will be raised by \$75, and the reinstatement penalty of \$125 will be eliminated. Reinstatement of a license to active status one year or more after becoming inactive will be raised by \$50.

Notice of Intended Action was published in the July 6, 2005, Iowa Administrative Bulletin as **ARC 4309B**. Comments were received prior to the public hearing on July 26, 2005, which no one attended. One physician wrote in opposition to the fee increases because his income is not increasing at the same pace as the fees. Two medical associations submitted written comments outlining their unhappiness with the Legislature's determination that the medical profession should be solely responsible for funding the Board and for being responsible to contribute 10 percent of new fees to the General Fund. Further, the associations oppose the magnitude of the fee increases. The Board, after considering the public comments, made no changes in the amendments.

The Board approved the amendments to Chapters 8, 9 and 10 during a telephone conference call on August 25, 2005.

The Board finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of these amendments, 35 days after publication, should be waived and the amendments should be made effective on October 1, 2005, after filing with the Administrative Rules Coordinator on August 30, 2005. These amendments confer a benefit to the Board, to the public and to the regulated community.

These amendments will become effective on October 1, 2005.

These amendments are intended to implement Iowa Code chapters 147, 148, and 272C.

The following amendments are adopted.

ITEM 1. Amend subrule **8.4(1)**, paragraphs "**a**," "**c**," "**f**," and "**g**," as follows:

a. Initial licensure, \$400 ~~\$450~~ plus the fee for evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI).

c. Renewal of an active license to practice, ~~\$425~~ ~~\$500~~ if renewal is made via paper application or ~~\$312.50~~ ~~\$400~~ if renewal is made via on-line application, per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months. A convenience fee will be charged for on-line renewal.

f. Reinstatement of a license to practice one year or more after becoming inactive, ~~\$400~~ ~~\$450~~ plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

MEDICAL EXAMINERS BOARD[653](cont'd)

g. Reinstatement of a license within one year of becoming inactive, ~~the renewal fee for the most recent license period plus a \$125 reinstatement penalty. The renewal fee is \$425 \$500~~ except when the license in the most recent license period had been granted for less than 24 months; ~~in~~ In that case, the ~~renewal reinstatement~~ fee is prorated according to the date of issuance and the physician's month and year of birth.

ITEM 2. Amend subrule **8.4(3)**, paragraph "a," as follows:

a. Application for a special physician license, ~~\$200 \$300~~ plus the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks.

ITEM 3. Amend subrule **9.5(1)**, paragraph "a," as follows:

a. Pay a nonrefundable initial application fee of \$400 ~~\$450~~ plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the criminal history background checks by the Iowa division of criminal investigation (DCI) and the Federal Bureau of Investigation (FBI); and

ITEM 4. Amend subrule **9.11(3)**, paragraph "a," as follows:

a. The renewal fee is ~~\$425 \$500~~ if the renewal is made via paper application or ~~\$312.50 \$400~~ if the renewal is made via on-line application, *per biennial period or a prorated portion thereof if the current license was issued for a period of less than 24 months. A convenience fee will be charged for on-line renewal.*

ITEM 5. Amend subrule **9.13(1)**, paragraph "a," as follows:

a. Fees for reinstatement within one year of the license's becoming inactive. ~~The fee shall include the renewal fee for the most recent license period plus \$125 reinstatement penalty. The renewal reinstatement fee is \$425 \$500~~ except when the license in the most recent license period had been granted for less than 24 months; in that case, the ~~renewal reinstatement~~ fee is prorated according to the date of issuance and the physician's month and year of birth.

ITEM 6. Amend subrule **9.13(2)**, paragraph "b," as follows:

b. Pay the reinstatement fee of \$400 ~~\$450~~ plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks. No fee is required for reinstatement for those whose licenses became inactive between December 8, 1999, and July 4, 2001; however, the fee for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks will be assessed.

ITEM 7. Amend subrule **10.4(3)**, paragraph "a," subparagraph (1), as follows:

(1) Pay a nonrefundable special license fee of ~~\$200 \$300~~ plus the fee identified in 653—subrule 8.4(7) for the evaluation of the fingerprint packet and the DCI and FBI criminal history background checks;

[Filed Emergency After Notice 8/30/05, effective 10/1/05]

[Published 9/28/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/28/05.

ARC 4539B

STATE PUBLIC DEFENDER[493]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender amends Chapter 12, "Claims for Indigent Defense Services," Iowa Administrative Code.

This amendment increases the reimbursement rate of automobile mileage for court-appointed attorneys.

Pursuant to Iowa Code section 17A.4(2), the State Public Defender finds that notice and public participation are unnecessary and contrary to the public interest.

The State Public Defender also finds, pursuant to Iowa Code section 17A.5(2)"b"(2), that the normal effective date of this amendment should be waived and this amendment should be made effective upon filing on September 6, 2005, because the amendment confers a benefit on the public.

This amendment is also published herein under Notice of Intended Action as **ARC 4540B** to allow for public comment.

This amendment is intended to implement Iowa Code chapters 13B and 815.

This amendment became effective September 6, 2005.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend subrule **12.8(1)**, paragraph "a," as follows:

a. Mileage for automobile travel at the rate of ~~24 30~~ cents per mile. The number of miles driven must be listed in the itemization of services ~~or~~ and on the claim form. Other forms of transportation costs incurred by the attorney will be reimbursed with prior approval from the court.

[Filed Emergency 9/6/05, effective 9/6/05]

[Published 9/28/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/28/05.

ARC 4531B**CORRECTIONS DEPARTMENT[201]****Adopted and Filed**

Pursuant to the authority of 2005 Iowa Acts, House File 619, section 30, the Department of Corrections hereby adopts amendments to Chapter 38, "Sex Offender Management and Treatment," Iowa Administrative Code.

The purpose for these amendments is to ensure that the Department's administrative rules are consistent with 2005 Iowa Acts, House File 619, which makes statutory changes to the Iowa sex offender registry process. 2005 Iowa Acts, House File 619, took effect on July 1, 2005. For purposes of the Iowa Sex Offender Registry, the Department of Corrections, the Department of Human Services, and the Department of Public Safety will now assess the risk that a particular offender will reoffend. The Department of Corrections assists with the processing of offenders required to register information with the Department of Public Safety, pursuant to Iowa Code chapter 692A, commonly referred to as the Iowa Sex Offender Registry.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 3, 2005, as **ARC 4404B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 4403B** on the same date. A public hearing was held on August 23, 2005, from 11 a.m. to 1 p.m. in the Second Floor Conference Room of the Department of Corrections. No one attended the public hearing, and no oral or written testimony was received. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

These amendments were approved during the September 9, 2005, meeting of the Board of Corrections.

These amendments will become effective on November 2, 2005, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement 2005 Iowa Acts, House File 619, section 30.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [38.2, 38.3] is being omitted. These amendments are identical to those published under Notice as **ARC 4404B** and Adopted and Filed Emergency as **ARC 4403B**, IAB 8/3/05.

[Filed 9/9/05, effective 11/2/05]
[Published 9/28/05]

[For replacement pages for IAC, see IAC Supplement 9/28/05.]

ARC 4538B**CULTURAL AFFAIRS
DEPARTMENT[221]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 303.1 and 303.1A, the Department of Cultural Affairs hereby amends

Chapter 9, "Cultural and Entertainment Districts," Iowa Administrative Code.

These amendments implement the Cultural and Entertainment District Program as authorized by 2005 Iowa Acts, House File 868, section 19. The amendments clarify the definition of a certified cultural and entertainment district and affirm the availability of rehabilitation tax credit incentives for the program.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 3, 2005, as **ARC 4392B**.

The Department sought input about the amendments by holding a public hearing. No members of the public provided comments. These amendments are identical to those published under Notice.

The Department Director adopted these amendments on September 7, 2005.

These amendments are intended to implement 2005 Iowa Acts, House File 868, section 19.

These amendments will become effective November 2, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [9.1 to 9.8] is being omitted. These amendments are identical to those published under Notice as **ARC 4392B**, IAB 8/3/05.

[Filed 9/9/05, effective 11/2/05]
[Published 9/28/05]

[For replacement pages for IAC, see IAC Supplement 9/28/05.]

ARC 4534B**DENTAL EXAMINERS BOARD[650]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 11, "Licensure to Practice Dentistry or Dental Hygiene," Iowa Administrative Code.

These amendments clarify procedures for the renewal and reinstatement of a local anesthesia permit.

These amendments are subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 2005, as **ARC 4364B**. A public hearing on the amendments was held on August 9, 2005. No written or oral comments on the amendments were received. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments were approved at the August 25, 2005, regular meeting of the Board of Dental Examiners. The Board of Dental Examiners ratified a recommendation of the Dental Hygiene Committee of the Board regarding the proposed changes.

These amendments are intended to implement Iowa Code chapters 147 and 153.

These amendments will become effective on November 2, 2005.

The following amendments are adopted.

DENTAL EXAMINERS BOARD[650](cont'd)

Amend subrules 11.7(2) and 11.7(3) and adopt **new** subrule 11.7(4) as follows:

11.7(2) Permit renewal. ~~The~~ *Prior to June 30, 2006, the permit shall expire on the date the dental hygienist's license expires June 30 of every even-numbered year. For the renewal period beginning July 1, 2006, and ending June 30, 2007, the permit shall expire on June 30, 2007. After June 30, 2007, the permit shall expire on June 30 of every odd-numbered year.* To renew the permit, the dental hygienist must:

a. At the time of renewal, document evidence of holding an active Iowa dental hygiene license.

b. Submit the application fee for renewal of the permit as specified in 650—Chapter 15.

11.7(3) Failure to meet the requirements for renewal shall cause the permit to lapse and become invalid.

~~The permit may be reinstated upon documentation that the dental hygienist has successfully completed a certification course approved by the dental hygiene committee.~~

11.7(4) *A permit that has been lapsed for two years or less may be reinstated upon the permit holder's application for reinstatement and payment of the reinstatement fee as specified in 650—Chapter 15. A permit that has been lapsed for more than two years may be reinstated upon application for reinstatement, documentation of meeting the requirements of 11.7(1)"b" or "c," and payment of the reinstatement fee as specified in 650—Chapter 15.*

[Filed 9/9/05, effective 11/2/05]

[Published 9/28/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/28/05.

ARC 4533B

DENTAL EXAMINERS BOARD[650]

Adopted and Filed

Pursuant to the authority of Iowa Code section 147.76, the Board of Dental Examiners hereby amends Chapter 13, "Special Licenses," Chapter 14, "Renewal," Chapter 15, "Fees," and Chapter 25, "Continuing Education," Iowa Administrative Code.

Item 1 of the amendments changes the renewal term of a resident license from an annual renewal to a license period that extends until the expected date of completion of the resident training program with the option of an extension, if warranted. In lieu of the Board's requiring a resident to annually renew the resident's license, the Board shall require the director of the resident training program to update the Board annually on the progress of residents in their training programs.

Items 3 and 9 of the amendments change the renewal term of a dental hygiene license from a biennial period to a one-year period for the renewal term beginning July 1, 2006, and ending June 30, 2007. For the renewal term beginning July 1, 2007, and ending June 30, 2009, a dental hygiene license shall be renewed biennially and expire on June 30 of every odd-numbered year. Fees and continuing education hours shall be prorated accordingly.

Currently the Board takes in a larger amount of revenue in even-numbered years and has a revenue deficit in odd-numbered years. By changing the renewal term for dental hygienists, the Board can correct this revenue imbalance.

Items 4 through 7 of the amendments increase application and renewal fees, fees for issuing duplicate certificates and renewals, and fees for written verifications of licensure or registration status. The Board has not increased application fees since 1983. Dental and dental hygiene renewal fees were last increased in 1999. The Board is required by Iowa Code section 147.80 to set fees so that, as nearly as possible, projected revenues equal projected costs and any imbalance in revenues and costs in a fiscal year is offset in a subsequent fiscal year.

Item 8 of the amendments eliminates a reference to prorating fees for electronic or printed copies of statements of charges, final orders and consent agreements because subscribers are given a full year of the requested documents.

Item 1 of the amendments is subject to waiver at the sole discretion of the Board in accordance with 650—Chapter 7. However, fees are not subject to waiver pursuant to 650—15.9(17A,147,153,272C).

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 20, 2005, as **ARC 4362B**. A public hearing on the amendment was held on August 9, 2005. No oral or written comments on the Notice were received.

The following minor changes to the amendments published under Notice were made. In Item 5, the phrase "issuance of" was stricken from subrules 15.1(9), 15.1(10), and 15.1(11) to clarify that the fee is paid for review of a submitted application. The wording of subrule 15.1(11) was also changed to read, "The application or reinstatement fee for a permit to authorize a dental hygienist to administer local anesthesia is \$70."

These amendments were approved at the August 25, 2005, regular meeting of the Board of Dental Examiners. The Board of Dental Examiners ratified the recommendation of the Dental Hygiene Committee of the Board regarding the proposed changes for the dental hygiene renewal cycle and dental hygiene fees.

These amendments are intended to implement Iowa Code chapters 147, 153, and 272C.

These amendments will become effective on November 2, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [13.1(3) to 13.1(9), 14.1, 15.1(1) to 15.1(6), 15.1(9) to 15.1(11), 15.2, 15.4(1), 15.4(2), 15.5(3), 15.5(4), 25.2(1), 25.2(2)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 4362B**, IAB 7/20/05.

[Filed 9/9/05, effective 11/2/05]

[Published 9/28/05]

[For replacement pages for IAC, see IAC Supplement 9/28/05.]

ARC 4550B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17) and 2005 Iowa Acts, House File 825, section 55, the Iowa Finance Authority hereby adopts new Chapter 23, “Transitional Housing Revolving Loan Program,” Iowa Administrative Code.

This amendment adopts a new chapter concerning the Transitional Housing Revolving Loan Program operated by the Authority. Through the Transitional Housing Revolving Loan Program, the Authority seeks to assist in the development of affordable housing for parents who are reuniting with their children while completing or participating in substance abuse treatment. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the Transitional Housing Revolving Loan Program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority’s rules.

Notice of Intended Action was published in the August 3, 2005, Iowa Administrative Bulletin as **ARC 4405B**. The Authority held a public hearing on August 23, 2005, to receive public comments on these rules. The Authority received no comments at the public hearing. The adopted rules are identical to those published under Notice of Intended Action.

The Authority adopted these rules on September 7, 2005.

These rules will become effective on November 2, 2005.

These rules are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 825, section 55.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 23] is being omitted. These rules are identical to those published under Notice as **ARC 4405B**, IAB 8/3/05.

[Filed 9/9/05, effective 11/2/05]

[Published 9/28/05]

[For replacement pages for IAC, see IAC Supplement 9/28/05.]

ARC 4548B**IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(17), the Iowa Finance Authority hereby adopts new Chapter 24, “Home and Community-Based Services Rent Subsidy Program,” Iowa Administrative Code.

This amendment adopts a new chapter concerning the Home and Community-Based Services Rent Subsidy Program (program) to be operated by the Authority. Through the program, the Authority seeks to provide rent subsidy for persons who participate in a home- and community-based ser-

vices (HCBS) waiver program and who meet the nursing facility level of care for HCBS waiver services as established on or after July 1, 2005. This program is designed to provide rent assistance to these persons to help them live successfully in their own home and community until they become eligible for any other local, state or federal rent assistance. The rules outline the purpose, application procedure, program guidelines, and other necessary requirements of the program.

These rules do not contain a waiver provision, as the Authority does not intend to grant waivers under this program, other than as may be allowed pursuant to Chapter 18 of the Authority’s rules.

Notice of Intended Action was published in the August 3, 2005, Iowa Administrative Bulletin as **ARC 4406B**. The Authority held a public hearing on August 23, 2005, to receive public comments on these rules. The Authority received comments at the public hearing. These public comments addressed adding a representative payee to the list of individuals who are notified of eligibility determinations.

The Authority revised the proposed rules based on the public comments received by adding a definition for “legal representative” and by changing certain language to utilize this defined term. Other nonsubstantive, technical corrections have also been made.

The Authority adopted these rules on September 7, 2005.

These rules will become effective on November 2, 2005.

These rules are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 825, section 45.

The following **new** chapter is adopted.

CHAPTER 24**HOME AND COMMUNITY-BASED SERVICES****RENT SUBSIDY PROGRAM**

265—24.1(16) Purpose. This chapter defines and structures the rent subsidy program for persons who participate in a home- and community-based services (HCBS) waiver program and who meet the nursing facility level of care for HCBS waiver services as established on or after July 1, 2005. This program is designed to provide rent assistance to these persons to help them live successfully in their own home and community until they become eligible for any other local, state or federal rent assistance.

265—24.2(16) Definitions.

“Adult” means a person aged 18 or over.

“Authority” means the Iowa finance authority.

“Child” or “children” means a person or persons under 18 years of age.

“Dependent relative” or “dependent relatives” means a person or persons as defined by the department of human services under the provisions set forth in 441—subrule 51.4(4).

“Home- and community-based services waiver program” or “HCBS” means any of the waiver programs administered by the department of human services under the provisions set forth in 441—Chapter 83 including, but not limited to, the ill and handicapped waiver, the elderly waiver, the AIDS/HIV waiver, the mental retardation waiver, the brain injury waiver, and the physical disabilities waiver.

“Legal representative” for personal or health care decisions means a person possessing a durable power of attorney for health care, guardian, or next of kin (spouse, adult children, parents, adult siblings under Iowa Code chapter 144A). “Legal representative” for financial decisions means a person possessing a power of attorney, a representative payee, fiduciary or conservator.

IOWA FINANCE AUTHORITY[265](cont'd)

“Qualified rental unit” means an apartment, mobile home, or private room for which a signed written lease exists and which is governed by Iowa Code chapter 562A. A qualified rental unit does not include a home owned by a family member.

“Residential-based supported community living services” means residential-based supported community living services as defined in 441—subrule 78.41(10).

265—24.3(16) Eligibility requirements. All of the following criteria shall be met.

24.3(1) HCBS recipient. The person shall be an adult recipient of one of the HCBS waiver programs or a child receiving residential-based supported community living services under the mental retardation HCBS waiver program.

24.3(2) Demonstrated need. To demonstrate need, adult applicants must provide evidence that they are responsible for paying more than 30 percent of their gross income for rent and that they are not receiving and are ineligible for other rental assistance. In the case of children receiving residential-based supported community living services under the mental retardation HCBS waiver program, they or their families or guardians must provide evidence that the children are not receiving and are ineligible for other rental assistance and that more than 30 percent of the children’s gross income is obligated for rent. A minimum contribution of \$25 toward the cost of rent is expected from all applicants. This program may not be used to substitute for any other rent subsidy that a person had been receiving at the time of or immediately prior to the time of application to this program. Persons receiving rental assistance at the time of or immediately prior to the time of application to this program shall not be eligible.

24.3(3) Risk of nursing facility care. Applicants must be able to demonstrate both of the following:

a. That they have been assessed as needing, at a minimum, nursing facility level of care for HCBS waiver services; and

b. That they have insufficient funds to pay their community housing costs and that insufficient funds will cause them to enter a facility that provides, at a minimum, nursing facility level of care.

24.3(4) Ineligible for other rent subsidies. The person shall have been determined ineligible or be on the waiting list for rent subsidy programs under the U.S. Department of Housing and Urban Development (HUD) and any other available rent subsidy programs.

24.3(5) Responsible for rent. Adult program participants shall be financially responsible for rent. In the case of children receiving residential-based supported community living services under the mental retardation HCBS waiver program, they or their families must demonstrate this financial responsibility.

265—24.4(16) Application. Applications for the HCBS rent subsidy program may be obtained on the authority’s Web site at www.ifahome.com. Applications shall be submitted to the Iowa Finance Authority, HCBS Rent Subsidy Program, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309.

24.4(1) Application process. A person who wishes to apply shall complete the Application for HCBS Rent Subsidy and provide verification of the following:

a. The applicant’s estimated monthly gross income for the 12 months following application, including written evidence from the income sources used to determine that income.

b. Written evidence from sources of local rental assistance available in the applicant’s community that the applicant has applied for that rental assistance and that the applicant has been determined ineligible or placed on a waiting list for that rental assistance. If the waiting list for rental assistance has been closed, a copy of that notice is considered written documentation if signed and dated by a representative of the local rental assistance program.

c. The total amount of the monthly rent for the qualified rental unit.

d. The total number of bedrooms in the qualified rental unit.

e. The applicant’s number of dependent relatives living full-time in the qualified rental unit.

24.4(2) Date of application. The date of the application shall be the date the completed application is received by the authority, including written verification of gross income, written verification of application to other rental assistance programs or a signed, dated copy of the waiting list closure notice, and written verification that the applicant needs nursing facility level of care for HCBS waiver services.

24.4(3) Eligibility determination. The applicant, the applicant’s legal representative, or the applicant’s case manager shall be notified of the amount of monthly rent subsidy within 25 business days of the authority’s receipt of a complete application. The notice shall be sent on or about the date when the authority determines that funding is available to approve the applicant’s rent subsidy.

24.4(4) Waiting list. After funds appropriated for this purpose are obligated, the authority shall deny pending applications.

a. A denial shall be accompanied by a notice of decision, which will be sent within 25 business days of the authority’s receipt of a complete application. The notice shall state that no funds are available and that the applicant will be placed on the waiting list, or that the applicant does not meet eligibility requirements.

b. Applicants not awarded funding shall be placed on a statewide waiting list according to the order in which the completed applications and verification were received by the authority. In the event that more than one application is received on the same day, the person shall be entered on the waiting list on the basis of the day of the month of the person’s birthday, with the lowest number being first on the waiting list. Any subsequent tie shall be decided by the month of birth, January being month one and the lowest number.

c. When funding allows additional persons to be added to the rent subsidy program, their names shall be taken from the statewide waiting list, and their eligibility shall be determined at that time. If the completed application and verification of eligibility are not received by the time line specified by the authority, the person’s name shall be dropped from consideration for receipt of the rent subsidy payment.

265—24.5(16) Amount of rent subsidy.

24.5(1) Use of subsidy. Assistance shall be used for rental expense.

24.5(2) Maximum monthly payment for rent. Assistance for rent shall be equal to the rent paid, not to exceed 100 percent of the current fair market rent under guidelines of the applicable HUD low-rent housing program in the area where the person’s residence is located, less 30 percent of the gross income of the applicant. The fair market rent used shall be that for a one-bedroom unit or a proportionate share of the

IOWA FINANCE AUTHORITY[265](cont'd)

fair market rent in living units containing more than one bedroom. When the applicant resides with a dependent relative(s), the proportionate share may consist of additional bedrooms, applying the same maximum monthly payment standard.

24.5(3) Monthly payment. Applicants approved for rent subsidy payments shall receive an ongoing monthly payment which is equal to the amount determined pursuant to subrule 24.5(2), provided, however, that the authority will not send any payments that amount to less than \$25 but will accrue subsidy payments until such time as at least \$25 is accumulated. An approved rent subsidy shall be payable on a monthly basis following approval.

265—24.6(16) Redetermination of eligibility.

24.6(1) Time of completion. A redetermination of eligibility for rent subsidy payments shall be completed:

- a. At least once every 12 months.
- b. When a change in circumstances occurs that affects eligibility in accordance with rule 265—24.3(16).
- c. If the person moves from the residence stated on the application.
- d. When there is a change greater than \$40 in estimated gross monthly income.

24.6(2) Renewal notice. The authority shall send a renewal notice at least 60 calendar days before the deadline date for annual redetermination of eligibility.

a. The recipient shall submit the completed Application for HCBS Rent Subsidy and required verification materials to the Iowa Finance Authority, HCBS Rent Subsidy Program, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309.

b. If the authority does not receive the completed application and verification of continuing eligibility by the thirtieth day following the date of notification, the person's rent subsidy shall be terminated.

265—24.7(16) Termination of rent subsidy payments.

24.7(1) Reasons for termination. The rent subsidy shall terminate at the end of the month in which any of the following occur, and a notice shall be sent which states the reason for the termination:

- a. The person does not meet one or more of the eligibility criteria listed in rule 265—24.3(16).
- b. The person dies.
- c. Completion of the required documentation is not received.
- d. No further funds are available for the rent subsidy program.

24.7(2) Reporting of changes. The person is required to report to the authority within ten business days any changes that may affect eligibility. Failure to do so may result in responsibility for repayment of funds and termination of the rent subsidy. (See rule 265—24.8(16).)

24.7(3) Insufficient funding. If funds are not sufficient to cover payments for all persons on the rent subsidy, persons shall be terminated from the rent subsidy in inverse order based on the date of initial application. The person terminated shall move back to the waiting list with the person's original application date dictating the person's position on the waiting list as stated at subrule 24.4(4). The authority is responsible for notifying the persons who will be removed from the rent subsidy for this reason.

265—24.8(16) Fraudulent practices relating to the rent subsidy program. A person is guilty of a fraudulent practice if that person, or the person's representative, with the intent to

gain financial assistance for which that person is not eligible, knowingly makes or causes to be made a false statement or representation, or knowingly fails to report to an employee of the authority any change in circumstances affecting that person's eligibility for financial assistance. In cases of found fraudulent practices, the authority may require, as a condition of continued participation in the rent subsidy program, repayment of the amount that was received by the recipient while the recipient was ineligible.

265—24.9(16) Appeals.

24.9(1) An applicant whose application has been timely filed may appeal the authority's decision by filing a written notice of appeal within 14 days of the decision before the Iowa Finance Authority, 100 East Grand Avenue, Suite 250, Des Moines, Iowa 50309. To be considered timely, the notice of appeal must actually be received at the above address within the time frame specified.

24.9(2) The notice of appeal shall state the grounds upon which the applicant challenges the decision.

24.9(3) An appeal shall be heard by the executive director of the authority. The executive director shall grant the appellant reasonable opportunity to gather information and inquire as to why the decision in question was made. The executive director shall allow the appellant to present all the relevant facts supporting the appellant's position. Such presentation shall be held not later than 30 days after the filing of an appeal, unless the parties agree to hold the presentation on a later date.

24.9(4) Within 7 days of the presentation, the executive director shall issue a written decision which clearly states whether or not the authority's decision was appropriate. Such decision shall be delivered to the appellant and the board of the authority.

24.9(5) If the executive director determines that the authority's decision was not appropriate, the executive director shall recommend to the board of the authority a proper remedy.

24.9(6) Final agency action. After receiving a written decision from the executive director, the board must either approve or decline to approve the executive director's recommendation no later than the next regularly scheduled board meeting. Such action by the board shall be the final decision of the agency.

24.9(7) Judicial review. Judicial review of the authority's final decisions may be sought in accordance with Iowa Code section 17A.19.

These rules are intended to implement Iowa Code section 16.5(17) and 2005 Iowa Acts, House File 825, section 45.

[Filed 9/9/05, effective 11/2/05]

[Published 9/28/05]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/28/05.

ARC 4537B

RECORDS COMMISSION[671]

Adopted and Filed

Pursuant to the authority of Iowa Code section 305.8, the Records Commission hereby adopts new Chapter 15, "E-mail Retention," Iowa Administrative Code.

RECORDS COMMISSION[671](cont'd)

These rules clarify the duties and responsibilities of the state agencies as they manage electronic mail messages. These rules establish the principles agencies must use when retaining E-mail messages.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 3, 2005, as **ARC 4393B**.

The Records Commission sought input about the rules by holding a public hearing. No members of the public provided comments. These rules are identical to those published under Notice.

The Records Commission Chairperson adopted these rules on September 7, 2005.

These rules are intended to implement Iowa Code chapter 305.

These rules will become effective November 2, 2005.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 15] is being omitted. These rules are identical to those published under Notice as **ARC 4393B**, IAB 8/3/05.

[Filed 9/9/05, effective 11/2/05]

[Published 9/28/05]

[For replacement pages for IAC, see IAC Supplement 9/28/05.]

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